

RIGHTS AND DEVELOPMENT

Bulletin

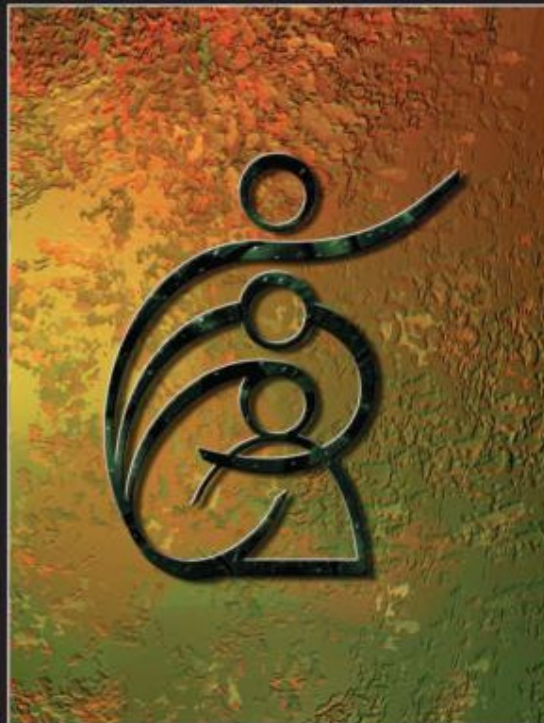


**Centre for Development
and
Human Rights**

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**Eradicating poverty is an ethical, social, political
and economic imperative of humankind**



**"To halve, by the year 2015, the proportion of the world's people
whose income is less than one dollar a day..."**

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**Centre for Development
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Human Rights**

Centre for Development and Human Rights, New Delhi, has launched a bi-monthly Bulletin on Rights and Development, addressed to human rights activists in India and abroad, academics and scholars, public servants and political workers, NGOs and interested public. Its purpose is to make the readers aware of some of the developments in the area of human rights and economic, political and social concerns in India in the recent period. It focuses on a few selected issues of major concern in other countries in the world. It has a few short special articles, published and unpublished, in this area, and a section on brief analytical features on some of the major developments. There is also a section of commentaries on some important news in this area. Another brief section provides some reviews of recent books on these subjects.

This Bulletin has been prepared by a team of young researchers, Ms. Priyanca M. Velath, Mr. Reji K. Joseph, Ms. Ipshita Sengupta and Ms. Avani Kapur as joint editors. The work of the team has been supervised by a Board of Editors consisting of Dr. Pronab Sen (Chief Statistician of India), Prof. Pulin Nayak (Professor of Economics, Delhi School of Economics), Dr. Alakh Sharma (Director, Institute of Human Development), Dr. N.J. Kurian (Director, Council for Social Development) Ms. Jayshree Sengupta, (Senior Fellow, Observer Research Foundation), Mr. Ravi Nair (Executive Director, South Asia Human Rights Documentation Centre) and Dr. Arjun Sengupta, (Chairman - CDHR) as Editorial Advisor.

The Bulletin is available on the website of the Centre for Development and Human Rights, www.cdhr.org.in

RIGHTS – ARTICLES

Empty Stomachs and the Union Budget

-Jean Drèze

Finance Minister, P. Chidambaram's recent budget speech leaves no doubt about the priorities of economic policy in India today. The Minister endorses the 11th Plan's "declared goal" of "faster and more inclusive growth," but the fine print makes it clear that his main concern is with "faster." Human development is little more than a footnote, and is even invoked at the end of the speech to justify the single-minded focus on faster economic growth: "Our human and gender development indices are low not because of high growth but because growth is not high enough." This odd statement trivialises any possible dissent with the growth-centred strategy by equating such dissent with the foolish claim that India's human development indicators are low "because of high growth." The concluding sentence of the speech drives the last nail in the coffin of the critics by quoting Nobel Laureate Mohammad Yunus to the effect that there is "no other trick" than faster growth to achieve rapid poverty reduction.

A useful test of the government's commitment to "more inclusive growth" is the priority attached to the National Rural Employment Guarantee Act (NREGA), which came into force in February 2006 in the country's poorest 200 districts. Two years ago, the National Advisory Council (NAC) estimated that fair implementation of the Act in these 200 districts would require an annual expenditure of about Rs.20,000 crore, or Rs.100 crore per district on average. As it happens, expenditure levels in the better-performing districts are right on track. Rajasthan, for instance, has already spent Rs.600 crore in its six NREGA

districts. But in the country as a whole, NREGA expenditure per district was barely Rs.30 crore by the end of January 2007 — about one third of the NAC benchmark.

The case of Dungarpur district in Rajasthan is particularly interesting because the findings of recent "social audits" conducted there give reasonable confidence that the money has reached the intended persons. For instance, large-scale verification of "muster rolls" uncovered little evidence of significant fudging. According to official data, NREGA expenditure in Dungarpur (a relatively small district) is already well over Rs.100 crore. Almost every rural household has a job card, and the average job cardholder had already worked for about 70 days under the NREGA by the end of January. This is an unprecedented achievement in the history of social security in India, which points to the enormous potential of the NREGA as a tool of "inclusive growth."

The positive experiences in Dungarpur and elsewhere also lend support to the hopes that have been placed in the potential achievements of the Act, whether it be in terms of enhancing food security, or reducing distress migration, or activating the Gram Sabhas (Village Assembly), or empowering disadvantaged groups (notably women, Dalits, and Adivasis). The need of the hour is to extend these positive experiences across the country, and to raise NREGA expenditure levels much closer to the NAC projections.

Instead, the Finance Ministry continues its crusade against the Employment Guarantee Act. It is an open secret that the Ministry opposed the NREGA (the "expensive gravy train", in the words of a former Chief Economic Adviser) from the beginning. Indeed, it played a leading role in the attempted dilution of the NREGA draft prepared by the National Advisory Council. When this failed, the Finance Ministry insisted on the inclusion of a so-called "anti-corruption clause," which gives sweeping

powers to the Central Government to discontinue NREGA funding on the flimsiest suspicion of "improper utilisation of funds."

As the Act came into force, the Finance Ministry restricted the financial allocation for administrative expenses to two per cent of total costs, making it very hard to implement the NREGA in States that do not have readymade arrangements for implementing large-scale public works. And in the run-up to the Union budget 2007-08, the Finance Ministry opposed the Ministry of Rural Development's demand for extension of the NREGA to another 200 districts. As the Rural Development Minister, Raghuvansh Prasad Singh, politely said in a recent interview to *Business Standard*, "the Planning Commission and Finance Ministry are not showing interest in funding the programme." In more agitated moments he often castigates North Block as an "anti-rural, anti-poor lobby."



An Anganwadi Centre in Meghalaya
©www.megsocialwelfare.gov.in

With a little help from the Prime Minister's Office, the Finance Ministry eventually agreed to extend the NREGA to an additional 130 districts. But there is a catch: the budget allocation is virtually unchanged (just over Rs.10,000 crore), on the grounds that last year's allocation was underspent. In effect, the Union budget 2007-08 takes last year's diminutive expenditure levels as a benchmark for this year, instead of waking up to the need for a drastic increase. And while the budget speech states that "the budget allocation (for the

NREGA) would have to be supplemented according to need," it is a safe bet that nothing of the sort will actually happen. The sub-text is clear: The NREGA was successfully held up last year, and will be held up again this year.

Another useful test of the government's commitment to "inclusive growth" is the fate of the Integrated Child Development Services (ICDS) — the only major national programme for children under the age of six years. The universalisation of the ICDS is one of the core commitments of the Common Minimum Programme. It is also required for compliance with Supreme Court orders, including the landmark judgment of December 13, 2006. In concrete terms, universalisation involves ensuring that every settlement has a functional anganwadi (child care centre), and that all ICDS services are extended to all children under six as well as to all eligible women. As things stand, barely one third of all children under six are covered, and the quality of ICDS services is also far from adequate.

Detailed recommendations to achieve "universalisation with quality" have recently been formulated by the National Advisory Council, the Commissioners of the Supreme Court, Citizens' Initiative for the Rights of Children Under Six, the Ministry of Women and Child Development's Working Group on Child Development, the Planning Commission's Working Group on Food and Nutrition Security, and the Working Group on Integrating Nutrition with Health, among others. In spite of minor differences, there is a remarkable consistency between these different sets of recommendations. The government has rarely been presented with such a clear road map to implement its own promises.

This material was consolidated in the Focus On Children Under Six (FOCUS) report, released on December 19, 2006, by Amartya Sen on the occasion of "Bal Adhikar Samvad," a public gathering on the rights of children under

six. Montek S. Ahluwalia, Deputy Chairman of the Planning Commission, publicly welcomed the report and assured the audience that the government was committed to the implementation of the Supreme Court judgment on the ICDS. Similar assurances were received from the Prime Minister, Manmohan Singh, on the same day, and from Sonia Gandhi, Chairperson of the United Progressive Alliance, the next day

Against this background, it is startling to find that the budget allocation for the ICDS in 2007-08 is virtually the same as in 2006-07. In fact, it is the same, as a proportion of GDP. This year, the Government of India will be spending less than Rs.5,000 crore to protect the well-being and rights of 160 million children under six. This compares with Rs.96,000 crore to be spent on defence — the figures speak for themselves.

The status quo on the ICDS would be easier to accept if the government had an alternative plan to tackle the country's disgraceful levels of child undernutrition and ill health. According to the recently released findings of the third National Family Health Survey, 46 per cent of Indian children are underweight — virtually the same figure as eight years ago. This is a stark indictment of aimless economic growth as a strategy for rapid improvements in health and nutrition. Yet the fixation with "faster growth" continues and direct intervention is limited to token programmes. In effect, hungry children are being told, "be patient, it's just a matter of another twenty or thirty years and everything will be fine."

(The writer is Honorary Professor at the Delhi School of Economics.)

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Livelihood Conditions of Selected Craftsmen in West Bengal

-Jayshree Sengupta

Economic Growth – No benefits for Indian Craftsmen

Along with high rate of economic growth, India is experiencing a high export growth of 19.5 per cent (December 2006). Apart from software and jewellery exports, the export of handicraft products has also experienced a significant resurgence, which is good news for the millions of handicraft workers in the country.

Globalisation has enabled the world to become aware of the artistic and cultural richness of developing countries and more people are looking for unique handcrafted items for their personal use and their homes that are made in the Third World. The resulting demand for more boutique items by the affluent societies of the world has been followed by a revival of embroidered and handcrafted items that instead of being mass-produced are more individualised and customised. Each item can be uniquely designed and embellished by hand with embroidery, zari, sequins and semi-precious stones on expensive fabrics and even French designers are favouring outsourcing of some types of embellishments from India.

There are very few countries in the world with the kind of skills that Indian craftsmen and artisans have for hand embroidery, shawls, handmade metal ware (including silver jewellery) and woodcarving. Even though China is a close competitor in many handicrafts, India has its own unique quality in certain types of hand-embroidered goods that are colourful and eye-catching. Indian designers are increasingly going for styles requiring heavy embroidery with beads, sequins and zari and these are being sold in up-market boutiques in

the Western, African and Gulf countries at high prices.



Embroiderers in West Bengal.

The irony is that while the exporters and middlemen are earning handsomely from the sale of hand embroidered items abroad, the artisans actually embellishing the fabrics painstakingly hour after hour, usually in their homes, live in abject poverty. While women wear their creations at high society events in New York or London or Tokyo, the young embroiderers toil away in semi darkness, somewhere in nondescript villages of West Bengal, Gujarat or Uttar Pradesh. Their eye-sight is damaged by sitting at their dimly lit work place as there is no regular power supply in the villages. Most of the workers are school dropouts, both girls and boys. Some intricate embroidery often requires tender fingers, which only teenagers and pre-teen children can undertake. Let us look at some particular cases: -

Embroiderers in Panchla

A village in Howrah district (Panchla) of West Bengal specialising in such zari embroidery has the entire village engaged in zari work. But the embroiderers of Panchla have no proper work place and work from their homes that lack proper sanitation, regular power supply, adequate water supply and ventilation. They earn only Rs 40-50 a day for embroidering fabrics that would be made into dresses selling for hundreds of dollars abroad. Some are embroidering saris and lehengas that would cost thousands of rupees in

metropolitan cities in India. Clearly, the benefits of export growth and rise in domestic demand for hand-embroidered goods are not percolating down to the workers. This is because artisans lack capital or assets of their own and are dependent totally on middlemen who supply them with raw materials and designs and collect the final products after paying them hourly or daily wages. Their wages are quite often below the minimum wage. Low income, poor health, lack of access to credit and in general, lack of information about market conditions, push the workers deeper into poverty and into the clutches of middlemen.

If the artisans were self-employed with access to raw materials and designs, they could directly supply to exporters, shops in the cities or designers based in India and abroad. On the contrary, embroiderers in West Bengal are selling their goods all over India via middlemen. They could have a higher share of the profits from an upsurge in export growth if they could directly sell to the buyers.

Thus, it is important to empower the artisans working in poor conditions so that they have a better income. Currently, they are dependent on middlemen for providing them with personal loans and work. They need to be, first, organised into self-help groups in order to gain collective competence so that they can undertake orders on their own and deliver consignments on time to the buyers. They could source the raw materials themselves if they had access to credit. Secondly, once the products are ready, marketing them would require organisational and managerial skills, which the artisans, individually, may or may not possess. But as a group, they are in a better position to acquire such skills.

Most importantly, the artisans would benefit enormously, if they were provided with financial help to meet their credit needs. Training, information about market trends and

help in marketing of products would further enable the artisans to improve their income and their conditions of work. The self-help groups could have a common work place where the embroidery work could be undertaken under better light, ventilation and access to toilets. Such interventions have helped artisans in places where they have been implemented.

The village artisans should also be enabled to participate in a large number of exhibitions and fairs organised by the state governments. District level 'haats' (open marketplaces) also need to be promoted. These exhibitions can provide feedback to the artisans of what is in demand in the market as well as exposure to market competition. The buyers could also be invited to the village clusters and direct linkages between buyers and units could be established.

The village artisans' credit needs are extremely important as their work is entirely labour oriented and they have little or no capital of their own. The middlemen provide loans without collateral but charge high interest rates. However, banks are reluctant to give loans to villagers for home-based business initiatives and especially loans without collateral. Banks are also not easily accessible to the villagers as there is a lot of paper work involved, which is becomes cumbersome for most of the village adults with low literacy levels. The children of Panchla thus, need to be encouraged to go to school than be forced to work.

Most importantly, the artisans would benefit enormously if they were provided with financial help to meet their credit needs. Training, information about market trends and help in marketing of products would further enable the artisans to improve their income and their conditions of work.

Training centres can enable them to upgrade their skills. When empowered, women can work from the vicinity of their homes and become self-employed. Additional facilities like crèches and pre-school nurseries can also assist women in working outside their homes. Thus, it is possible to upgrade skills of the workers and make them more or less independent from the middlemen, by allowing them to have access to credit and marketing channels.

Terracotta Workers in Bankura

For terracotta workers of Bankura district, the pressing and perpetual problem is of poor infrastructure and low income rather than sale of their products. The village of Panchmura, in Bankura, has about 44 families devoted entirely to the manufacture of terracotta objects. Being a famous craft centre, many buyers go to Panchmura and the potters are also able to sell in 'haats' and fairs in urban centres quite easily. Yet, the village is poor and the poverty of potters is related to poor kiln facilities, costly transportation, lack of storage space and a proper exhibition space. They are sold at low prices in these local 'haats' and not produced in abundant quantity. The potters are also lacking innovative ideas and designs and are unable to make suitable accessories to modern interiors, in order to enhance their sales. They are still making age-old traditional terracotta objects. However, a proper sales emporium would promote the craft and encourage sales.

Secondly, the terracotta potters' wheel needs to be mechanised in order to raise efficiency and productivity. The kilns currently in use for firing clay are of five and a half feet in diameter and depth and the potters are using local firewood and agricultural waste. The temperature achieved is only around 700 Celsius whereas the actual temperature required is 900 Celsius. Due to the low temperature, the quality is poor and breakage is very high.

The potters' craft is confined within families because of low literacy levels among the potters and their lack of awareness of latest global trends in terracotta products. The income from the sales of terracotta products in



Terracotta Pots at the Museum of Indian Terracotta © www.vothphoto.com

Panchmura is insufficient for families to remain wholly devoted to this craft forcing many artisans to leave their traditional vocation and opt for daily wage labour. But in view of the emerging markets for these products and the big opportunity in exports, more jobs can be created in the village. The supply of raw material is adequate and the demand for terracotta products, even from within the country is rising. It is important to nurture the skills of workers and keep the tradition alive. Thus, to ensure sustainability of these crafts in the present competitive scenario, it is essential to bring about technological upgradation, rise in productivity, increase in the capacity of existing units and innovations and ideas. The equipment, machinery and production processes that can be adopted need to be studied in detail and tools for improving productivity and creativity should be introduced. Smooth transportation is also a problem and pucca roads are needed.

Weavers in Amtola

In the vicinity of Kolkata, Amtola was established to rehabilitate weavers from Bangladesh in 1971. But today, the handloom

weavers of Amtola are in a pitiable state and are living in conditions of near starvation. They are forced to work under middlemen who provide them with the yarn and buy the final product as they lack their own capital. The cooperative society of Amtola is not working properly as it seems to be facing a problem of a regular marketing outlet and cash inflow. The state government emporia seem to be the only reliable buyers but they do not make timely payments. The weavers' payments are also staggered because of the low cash inflow. Young women who are working at their looms from morning till evening making handloom saris in traditional designs, are only earning Rs 35 a day (Rs 70 for a sari which takes two days of labour). The families who live near by appear poor and lack basic amenities. Their dwellings are surrounded by stagnant water, making them vulnerable to disease and disability.

Basically, the volume of input materials and production in respect of each unit is very low. In view of the small size of operations, getting the quality input materials at competitive prices is also very difficult. Since, production per unit is limited as it is entirely family based and ill-equipped with primitive pit looms, it is next to impossible for weavers to undertake bigger orders and supply directly to the market. As a result, both for the input material and the sale of the products, weavers are dependent on middlemen.

For greater empowerment, skill upgradation, introduction of modern mechanised looms and trendy designs are needed. The traditional skills also need to be integrated with new skills that cater to the demands of urban markets. A training programme is important to introduce new skills for better product designing, finishing and aesthetic packaging.

Conclusion

Workers are living and working in very poor conditions in these sectors, because they have no bargaining power for the only traditional skills they possess. They have neither access to credit, market information, technology, latest designs, marketing channels nor contacts in distant markets. They can only be empowered through better (technical) education, training in marketing skills and access to credit. Costs of raw materials and transport could be substantially reduced, if the state government takes measures to improve village infrastructure. The state government also has the responsibility to provide power, sanitation and primary health care to the villagers. If these basic needs were taken care of, the artisans would be in a better position to improve productivity and income.

Today, the iniquitous world in which artisans live is one where they have nothing but their labour to sell. Although, their labour is responsible for value-addition to the final product, they are not adequately compensated for the same. The lack of economic opportunities in their traditional crafts are forcing these craftsmen to abandon their traditional vocation and unless their skills are nurtured, the crafts will automatically die out. It is imperative that they are given a fair remuneration for their work so that they can practice their craft in the future. Their unique skills are bound to provide them with adequate income and employment with the rise in demand for handmade products in the future. This is possible only if their primary needs are addressed by the state and the central governments and there is a 'trickle down' of the benefits of high export growth.

(The writer is a Senior Research Fellow, Observer Research Foundation)

Rights Based Approach to Primary Education in India

-Kaushik Ranjan Bandyopadhyay

Education is not only a 'basic need' of a society but has been recognised as a fulcrum of the human development process and as an instrument of empowerment of the poorer, weaker and vulnerable sections of the community. The architects of the Indian Constitution in recognition of both the intrinsic and instrumental value of education had kept a time bound provision for providing compulsory primary education in the Directive Principles of State Policy (DPSPs). However, as the planners were preoccupied with economic growth for the first few decades of planning, such a critical element of human development policy got relegated to the background.

The original text of Article 45 in the DPSPs of the Indian Constitution dealing with primary education had laid down that the State "shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years." However, the DPSPs have always been criticised as mere goals or directives without any legal obligation on the part of the state towards fulfilling those stated directives. It is only recently that the evolution of the role and voice of civil society combined with judicial activism facilitated the 'justiciability' of the 'basic needs' in terms of the fundamental rights (FRs) to 'life and liberty' or 'equality'.

An outcome of such social mobilisation and judicial action could be observed in the final insertion of a new article 21 (A) in the section on FRs in 2002 under the 83rd Constitutional Amendment. The Article states - "The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law,

determine.” This implies, at the first instance, that the State is now under an obligation to ensure free and compulsory education to all children aged six to fourteen years. This transformation of imperfect (moral or ethical) obligation of the state in terms of mere pronouncement or directive to a perfect obligation (legal), through a constitutional amendment and inclusion as fundamental right, holds enormous significance in reconciling the development policy, in general, and human development policy, in particular, with the rights based approach in India.

In line with the above developments, 15 state governments (which include Assam, Andhra Pradesh, Bihar, Goa, Haryana, Jammu & Kashmir, Madhya Pradesh, and Rajasthan among others) have already enacted compulsory education legislation and decided to impose penalties on parents, if they fail to send their children to schools. However, such inclusion of a penalty clause is a clear violation of the tenets of human rights-based approach to education as it amounts to ‘coercion’ and encroachment upon **‘liberty’**, which is the foundation of all human rights. Such a coercive way of providing compulsory education also questions **‘freedom from fear’**, one of the four basic freedoms considered as fundamental for nation-building by Franklin D. Roosevelt in his celebrated State of the Union Address of January 6, 1941.

Moreover, with nearly 260 million people living below the official poverty line in India and a plethora of vulnerable households who cannot bear the explicit and implicit costs of education, such an act of imposing penalty in case of default, would also be futile and may lead to unintended consequences as it undermines the pivotal causal factor for school dropout and non-enrolment, which is ‘poverty’. The findings of a more recent sample survey undertaken by the Centre for Development and Human Rights (CDHR), New Delhi, across the rural households of seven states namely, Bihar,

Orissa, Jharkhand, Maharashtra, Andhra Pradesh, Madhya Pradesh and Rajasthan, reinforces that ‘extreme poverty’ and ‘economic compulsions’ are dominant factors for school dropouts and non-enrolment. Especially in the states, where the rural households are reeling under systemic poverty, namely, Madhya Pradesh, Bihar, Orissa and Jharkhand, a disproportionately larger section of the children drop out before completing the primary level, whereas in the relatively better-off states like Andhra Pradesh and Maharashtra, dropouts complete at least the primary level.

It has also been observed that even if no fees and free accessories (like textbooks, stationary, school uniforms etc.) are provided to schoolchildren, the poor households are still required to bear a substantial proportion of direct (explicit) costs. Moreover, implicit costs are already being borne or would be borne by many households (opportunity costs in terms of the income foregone for a household in case the child goes to school). This implicit cost, as made out from the CDHR survey, would be all the more in case of agricultural labourers, rural artisans, scheduled castes, tribals and minorities as children in these categories of households have been observed as mostly engaged in various economic activities. The earnings of children from these activities are crucial for those households already struggling to fend for the non-derogable bare minimum necessities for subsistence. In light of these observations, it may be asserted that a penalty-based policy of elementary education violates the basic **‘right to livelihood’** and hence **‘right to life’** of the vulnerable sections of the population, particularly those living in the relatively poorer or disadvantaged states or those belonging to relatively deprived sections of the community.

One of the core principles of the international normative human rights framework is ‘indivisibility’, which implies that human rights are inalienable. Hence, with the aim of

realising the goal of compulsory education for all children, if the state adopts an approach (e.g. imposition of penalty in case of default), which actually does away with the basic ‘right to life’ and ‘liberty’ (Article 21 of the section on FRs of the Indian Constitution) of the affected population, then such a process is clearly inconsistent with the human rights based approach to development.

These arguments, as presented above, are not intended to undermine the importance of the policy of provisioning of compulsory primary education to the children aged 6-14 years but to draw attention to the way such provisioning is being made. Hence, instead of imposing ‘penalty’, which is clearly not desirable, the government could rather conceive a policy of primary educational provisioning through ‘incentives’ in the form of conditional cash transfers in the line of Bolsa Escola of Brazil or PROGRESA of Mexico.

- *The principal goal of PROGRESA in Mexico is to permanently increase the basic capabilities of the individuals living in extreme poverty in Mexico.*

- *The programme is made up of three closely linked components, e.g. education, health and nutrition. The foundation of this three-pronged approach lies in the tenet that the positive inter-relationships among these three components enhance the effectiveness of an integrated programme over and above the benefits that may be derived from each of these components separately.*

- *Under the first benefit component, e.g. education, PROGRESA strives to promote school attendance and educational performance by providing monetary educational grants to each child less than 18 years of age enrolled in school between the third grade of primary and the third grade of secondary school.*

- *As an outcome of such programme, school enrolment, attendance and completion rates have recorded a substantial increase. Even private service providers in these two countries have had to compete with government schools in attracting students whose parents can choose on the basis of quality*

Source: www.ifpri.org/themes/progres.htm

- *Bolsa Escola (Brazil) was conceived as a programme to ensure that families put and keep their children in school. Families below a specific income group with children in the age group of 6-15 years enrolled in regular schools were entitled to participate in the programme. In 2003, the Bolsa Escola, along with other cash transfer programmes was integrated into a larger federal programme called Bolsa Familia.*

Source: Social Protection Discussion Paper No. 0542, World Bank, December 2005

Such instances of incentive-based programmes are not only conducive to the realisation of a rights-based approach to development, but are also healthier than incorporating the element of ‘penalty’, as some of the state governments in India have been contemplating. However, given the resource constraint of the government, such a ‘programme of incentives’ needs to be carefully designed and implemented, after an extensive readiness assessment and proper identification of the poorest and vulnerable households, who need those most.

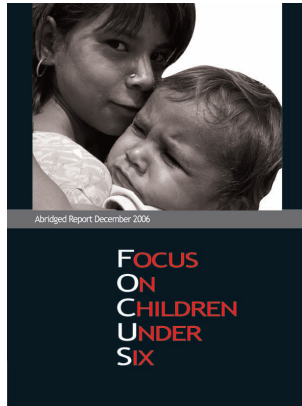
(The writer is Senior Researcher, Centre for Economic Studies and Planning, Jawaharlal Nehru University)

RIGHTS – FEATURES

FOCUS Report on ‘Children Under Six’ and Integrated Child Development Services (ICDS)

ICDS is India’s only national programme addressing the needs of children under the age of six and also one of the world’s largest and unique programmes for early childhood care and development. It was launched in October, 1975 but today, more than 30 years later, figures of the third National Family Health Survey of 2005-

2006 shockingly reveals that 45.95 per cent of children in India under the age of three years are underweight and as high as 79.2 per cent of children aged between 6-35 months are anaemic.



A report based on a survey of Integrated Child Development Scheme (ICDS) in six states in India, was released by Bal Adhikaar Samvaad in December 2006 in New Delhi. The FOCUS report, titled 'FOCUS - Focus On Children Under Six,' was "the outcome of a collective effort to bring children under six closer to the centre of attention in public debates and democratic politics" and the pressing need for their balanced nutrition, health and pre-school education. It was compiled by the Citizen's Initiative for the Rights of Children Under Six (CIRCUS) – a small team that effectively acts as a 'bridge' between the office of the Commissioners of the Supreme Court of India and the Secretariat of the Right to Food Campaign. Primarily based on a field survey of the Integrated Child Development Services (ICDS) programme conducted between May – June 2004 in six states; Chattisgarh, Himachal Pradesh, Maharashtra, Rajasthan, Tamil Nadu and Uttar Pradesh, this report also builds on a long series of discussions, meetings, workshops and conventions held in this regard, during the last few years.

For the field survey, a random sample of 200 Anganwadi Centre (AWC) were chosen, where unannounced visits were made, and detailed interviews were conducted with about

500 mothers of children under six. The AWC is a childcare centre located within the village itself managed by Anganwadi workers who are assisted by Anganwadi helpers. An Anganwadi covers a population of about 1,000 persons or 200 families.

The report shockingly reveals that other South Asian countries are doing better than India in this regard and India, in fact, has the lowest child-immunisation rates in the region. In contrast, through successful public interventions, Sri Lanka has been able to achieve almost universal success in child immunisation. While in the 1990s, Bangladesh had a higher infant mortality rate than India, today, the positions are reversed (56 per 1,000 in Bangladesh and 62 per 1,000 in India).

The state of India's children "is best described as a humanitarian emergency" in the FOCUS report as, approximately, half of India's children are undernourished, more than half suffer from anaemia and a similar proportion do not get immunisation. India has the highest proportion of undernourished children, along with Bangladesh, Ethiopia and Nepal. The report emphasises on 'universalisation with quality' of the ICDS.

Studies conducted in the rural areas of three southern Indian states (Tamil Nadu, Andhra Pradesh and Karnataka) found that the programme had a significant impact on the psycho-social development of children (both boys and girls) and showed that undernourished ICDS beneficiaries attained higher developmental levels than well-nourished children not enrolled in the programme. On the other hand, ICDS also suffers from certain lacunae such as rampant corruption, problems of service delivery, poor institutional coverage, and lack of supervision.

The report showed that a strong sustained political commitment and a conducive social context has made Tamil Nadu “shine in comparison to other FOCUS states”. An astonishingly high 96 per cent of the sample mothers in Tamil Nadu considered ICDS to be ‘important’ for their child’s well-being.

Tamil Nadu is Different

	Tamil Nadu	Other FOCUS States
Proportion (%) of Anganwadis that have:		
Own Building	88	22
Kitchen	85	29
Storage Facilities	88	50
Medicine Kit	81	23
Toilet	44	15
Average Opening Hours of the Anganwadi (according to the mothers)	6.5 hours a day	3.5 hours a day
Proportion (%) of children who attend “regularly”^a		
Age 0-3	59	19
Age 3-6	87	60
Proportion of mothers who report that:		
Pre-school educational activities are taking place at the Anganwadi.	89	42
The motivation of the Anganwadi Worker is “high”.	67.	45
The Anganwadi worker ever visited them at home.	58	26
Proportion (%) of women who have had at least one pre-natal health checkup before their last pregnancy.	100	65
Proportion (%) of children who are “fully immunized”.	71	43

Source: Focus Survey, 2004, Table 7.2

Although the basic structure of ICDS in Tamil Nadu is no different from the rest of India, there has been ‘initiative’ and ‘innovation’. For example, the inclusion of the Tamil Nadu Integrated Programme (TNIP), focuses on the most vulnerable children below two and monitors their progress until they reach the

normal growth curve. The TNIP has allowed the ICDS to have a two-worker model, making it more efficient. Sophisticated training programmes, coordination with health systems at various levels as well as women’s agencies have all played a crucial role in Tamil Nadu’s success. Moreover, being managed almost entirely by women, not just at the Anganwadi level but even at higher levels, the ICDS has become more accessible to village women. Other examples of successful interventions include, the Bellary district in Karnataka, the Dular Scheme in Bihar and the Integrated Nutrition and Health Project in nine states.

This report has been applauded as a milestone in the path towards securing rights of children under six especially in light of the recent Supreme Court judgment (13 December 2006) on the universalisation of ICDS. On the 13th of December 2006, the Supreme Court of India passed an order in the case of *PUCI v Union of India and Others*, calling for the universalisation of the ICDS. The apex court directed the Central Government to “sanction and operationalise” a minimum of 1.4 million AWCs by 2008. The bench also ruled that rural communities and slum dwellers are “entitled to an Anganwadi on demand” (not later than three months from the date of demand) in cases where a settlement has at least 40 children under six but no AWC.”

Moreover, on March 20, 2007, the Supreme Court set new deadlines by ordering that all the 1.88 lakh AWCs that were sanctioned in the year 2005 must be operationalised by 30th June, 2007 and all the 1.02 lakh AWCs that were sanctioned in 2006 must be made operational by September 2007. The court has also sought accountability from the state governments by asking them to file affidavits informing the court of the progress in operationalisation, within a given time frame. As Prof. Jean Dreze emphasised that the universalisation of ICDS would curb the inter-generational perpetuation of

social inequality. “This socialisation role of ICDS is very important in a country where social divisions are so resilient.” (*EPW, August 26 2006*)

Back in 2004, in keeping with the requirements of ‘universalisation with quality’ the National Advisory Council had recommended that, at least, Rs. 9,600 crore be allocated for ICDS in the 2007-08 budget. But the allocation for ICDS in the 2007-08 Union Budget has only been increased from Rs. 4,087 crore to Rs. 4,761 crore and is insufficient to double the number of ICDS centres in the country, in keeping with the Supreme Court directive. Children rights’ advocates have urged the government of India to revise these figures and provide a fairer deal for children under six, who represent more than 15 per cent of India’s population. Programmes like ICDS are rendered ineffective, given the wide gap between policy and implementation. It is heartening to know that Ms. Shantha Sinha, Magsasay award winner and renowned social activist has been recently appointed Chairperson, National Commission for Protection of Child Rights. With initiatives of this kind and the backing of the Supreme Court of India, it is clear that the potential for change exists and there is still hope for the children in India.

-CDHR Team

The Protection of Women From Domestic Violence Act 2005

After a long wait, the Protection of Women From Domestic Violence Act 2005 (DVA) became a reality in October 2006. This Bill was first introduced in the Indian Parliament in 2001, but its contents drew much flak from domestic and international women’s rights activists. The definition of domestic violence as per this Bill was flawed, in as much as it defined domestic violence as conduct where the abuser “habitually assaults” the victim and makes her

life “miserable” by such conduct, even if such conduct does not amount to physical abuse. The subjective nature of the definition of domestic violence and the lack of adequate protection for all women caught in situations of domestic abuse attracted a lot of criticism from all circles and was subsequently withdrawn.

Before the DVA, Section 498A of the Indian Penal Code (IPC) was the only legal provision protecting married women from domestic violence. This was the first attempt at recognising acts of domestic violence as a criminal offence. It provided that if the husband or a relative of the husband subjects his wife/married woman to cruelty, he/she shall be punished with imprisonment up to three years and/or fined. Acts of cruelty also include dowry-related violence.



The offence under Section 498A is cognisable, non-bailable and non-compoundable. However, in 2003, the Malimath Committee on Reforms of the Criminal Justice System recommended certain amendments to Section 498A that made the offence under the section, bailable and compoundable. The amendment was intended to minimise cases of immediate arrest in instances where the husband or his family might be falsely implicated and more importantly, it sought to enable a battered woman to return to her marital home. However, if such offences are made bailable, it will be easier for the accused to go scot-free and will further chances of harassment of the victim at the hands of the accused or his family.

One of the main features of the DVA is the definition of “domestic violence” itself, which has been widened to include all forms of abuse; ‘physical, mental, sexual, verbal, emotional and economic abuse’ that can cause harm or injury to the physical or mental well-being of the aggrieved person (Section 3). Another major development is the definition of an “aggrieved person” which not only includes a wife, but any woman in a domestic relationship with the accused and has been allegedly subjected to an act of domestic violence (Section 2(a)). A domestic relationship has been defined to mean any relationship between two persons who live or have lived together in a shared household and related by consanguinity, marriage or nature of marriage, adoption or are family members living as a joint family (Section 2(f)). It is not compulsory for the aggrieved person herself to file a complaint under the DVA.

The Magistrate is empowered under the DVA to pass orders so as to protect the aggrieved person from acts of domestic violence, such as to prohibit the accused from committing, aiding or abetting an act of domestic violence, enter the place of employment of aggrieved person or, if the aggrieved person is a child, its school or any place where the aggrieved person frequents, establish contact with the aggrieved person, alienating assets, bank accounts etc, held either jointly or separately, cause violence to the relatives, friends and well-wishers of the aggrieved person or commit any other act prohibited by the protection order (Section 18). The Magistrate may also pass an order, restraining the accused from dispossessing the aggrieved person from a legal interest in the shared household and prohibiting the accused or his relatives from entering the premises of the shared household, where the aggrieved person is residing. The Magistrate may, further provide monetary relief and monthly maintenance to the aggrieved person by the accused (Section 20).

Punishment for the breach of a protection order passed by the Magistrate may amount to imprisonment up to one year and/or a fine up to Rs. 20,000 (Section 31). The DVA also tries to ensure speedy justice for the aggrieved person by providing that the court shall hear the case within three days of the receipt of the application and must dispose off the case within sixty days of the first hearing (Section 12). The DVA also requires the proceedings under the Act to be held in camera, if the Magistrate deems it fit and if it is so desired by either of the parties to the proceedings (Section 16).

Leading women’s rights activists like Flavia Agnes believe that although the DVA gives legal recognition to the problem of domestic violence, the remedies provided under the DVA are already available under Indian civil law. For example, a destitute wife could claim maintenance for herself and her children, even outside of the DVA. However, a law is only good if it can be implemented well. For effective implementation, it is important for States to establish the supportive framework of protection officers and service providers, as provided by the DVA.

- *37.2 per cent of women in India suffer from domestic violence.*

- *The highest prevalence of domestic violence is in the state of Bihar (59 per cent) and it is least prevalent in the state of Himachal Pradesh (6.2 per cent).*

- *Lack of education is the primary reason for domestic violence. 46.5 per cent of illiterate women face domestic abuse and among women who had completed secondary or higher education, the statistics were much lower at 16.3 per cent.*

- *Women in rural India face the fear of domestic abuse more than women in urban India. 40.2 per cent of women in rural India and 30.4 per cent of women in urban areas face domestic violence. However in the state of Bihar urban women (62.2 per cent) suffer more than rural women (58.5 per cent)*

Source: National Family Health Survey III, 2005-06

Ever since its enforcement, the DVA has been faced with mixed responses. One side argues that it will be prone to misuse by women in urban elite settings, while the other side alludes to the inefficacy of such a law in addressing the concerns of millions of women in rural India, caught in patriarchal situations. A government employee in the South Indian state of Tamil Nadu became the first person to be arrested under the DVA, soon after its enforcement. (*The Times of India*, 28 October 2006)

However, the Supreme Court of India, in its first judgment related to the DVA has observed that a wife's claim for alternative accommodation lies only with the husband's property and the concept of a "shared household" does not extend to property acquired by her in-laws. The bench of the apex court expressed its disagreement with the vague nature of the definition of "shared household" under the DVA and blamed it on "clumsy drafting" and thus, "gave it an interpretation which is sensible and does not lead to chaos in society."

Despite these diverse reactions to an apparently progressive legislation like the DVA, women's rights activists and legal experts are hopeful that if effectively implemented, in keeping with its true spirit, this piece of legislation can truly advance the plight of millions of women across India whose lives are plagued by the "domestic violence" epidemic. A law of this magnitude is definitely a step in the right direction towards restoring women's rights within their own homes, as it targets a whole section of women other than wives such as adopted daughters, live-in partners, widowed women, divorced relatives etc who were earlier excluded from the ambit of Section 498A, IPC or any other law addressing violence against women.

However, questions relating to implementation remain, with many of the

mechanisms to be established under the DVA still dependent on positive state action. While the State should take adequate measures to ensure that the DVA is effectively implemented, it is also equally important to spread awareness amongst more and more women about the simple legal remedies available to them in such situations.

-CDHR Team

Health for All in India- Where are We Now?

It has been almost three decades since the Alma-Ata Declaration of 1978 proclaiming 'Health for all by 2000'. Where are we now in the realisation of this objective? India announced the goal of 'Health for All by 2000', as far back as 1983. Many studies and surveys point out that India's achievement in this regard is far from satisfactory.

The National Sample Survey Organisation of India has undertaken surveys on morbidity and health care as part of its decennial surveys on social consumption, since 1981. National Sample Survey (NSS) is the largest survey, in terms of coverage, collecting data on morbidity. The latest survey on morbidity - *Morbidity, Health Care and Condition of the Aged* (Report No 507, 60th round) points out the deteriorating state of health affairs in the country. It found that 9 per cent of the population in rural areas and 10 per cent in urban areas, reported the onset of ailments, during the period of the survey. The striking observation is that people in the higher-income groups tend to report morbidity more than people in the lower income groups.

It is normally expected that health conditions improve with better standards of living and that the higher income groups would have better health. In rural areas, 6.4 per cent of the bottom 5 per cent of the population report

illness, whereas the figures for the top 5 per cent population are 16.5 per cent. The case is similar in urban areas. While only 6.5 per cent of the bottom 5 per cent of the population report illness, 15 per cent of the top 5 per cent report illness. This is due to the fact that people's awareness about illness increase with better standards of living and hence reporting of morbidity also improves with improvement in living standards.

The question that arises then, is whether those reported ailments underwent medical treatment. Only 82 per cent of those reported ailments in rural areas and 89 per cent in urban areas underwent medical treatment. The percentage of people not undergoing medical treatment when they are ill is higher among lower income groups. Among the bottom 5 per cent of the population, nearly one-fourth (24 per cent) of people with illnesses in rural areas and more than one-fifth (22 per cent) of people with illnesses in urban areas did not undergo any medical treatment for various reasons. NSS finds six major reasons for non-treatment such as, no medical facility, lack of faith in the system, long waiting period, financial problems, ailment not considered serious and others. The following table gives the percentage distribution of untreated ailments by reasons for non-treatment. It also gives similar estimates for the 52nd round, enabling one to make a comparative analysis. (See: *Table 1*)

It can be seen that 'ailment not considered to be serious' is the major reason for not undergoing treatment. 32 per cent of untreated cases in rural areas and 50 per cent in urban areas fall under this category; the other reasons being financial problems and lack of medical facility. The comparative analysis between the 52nd and 60th rounds reveals that, non-treatment of diseases owing to the reason of 'not considering the illness serious' is now on the decline. However, non-treatment due to

financial problems, lack of medical facilities and long waiting period is on the rise.

Table 1: Percentage distribution of untreated ailments by reasons for non-treatment

Reasons	52 nd (1995-96)		60 th (2004)	
	Rural	Urban	Rural	Urban
No Medical Facility	9	1	12	1
Lack of faith in the system	4	5	3	2
Long waiting	1	1	1	2
Financial Problems	24	21	28	20
Ailment not considered serious	52	60	32	50
Others	10	12	24	25
All	100	100	100	100

Source: N.S.S. Report 507, 60th Round ; N.S.S. Report 441, 52nd Round.

Financial problems was cited as reason for non-treatment by 24 per cent of the untreated cases in rural areas and 21 per cent in urban areas during the 52nd round i.e. in 1995-96. This percentage has increased in rural areas to 28 per cent and declined by 1 per cent in urban areas. Lack of medical facility, which was the reason for 9 per cent of the untreated cases in rural areas and 1 per cent in urban areas in 1995-96, was cited to be the reason by 12 per cent of people in rural areas and 1 per cent in urban areas, in 2004. This dismal scenario reveals the absence of appropriate planning and implementation of health care standards across India.

The increasing percentage of people not undergoing treatment due to financial constraints needs to be seriously studied, especially in the context of the new Intellectual Property Rights (IPR) regime, which is expected to raise the price of medicines. There are also other aspects of health expenditure such as doctor's fees,

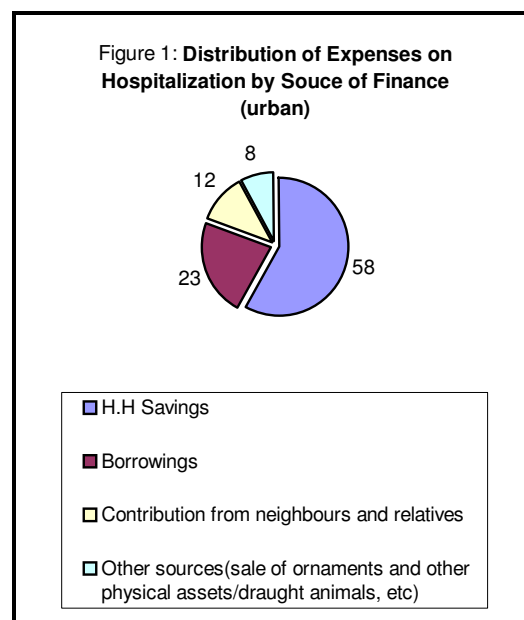
expenses for diagnostic tests and other related medical expenses. The NSS survey on consumer expenditure in 1999-2000 (55th round, Report No 461) covers out-of-pocket expenditure on health care. 77 per cent of health expenses in rural areas and 70 per cent in urban areas is attributable to medicines alone. The NSS morbidity survey (Report No. 507) has also covered different items of health care expenditure. Medicine accounts for 81 per cent of health care expenditure in rural areas and 75 per cent in urban areas (79 per cent overall).

Data shows that accessing health care leaves some people heavily indebted and distraught. Only 22 per cent of those undergoing treatment in rural areas and 19 per cent in urban areas, go to public hospitals. The rest depend on the private sector. In the private sector, the expenses are totally out-of-pocket unless there is a reimbursement provision. In India, only 4 out of 1000 treated persons are receiving full medical reimbursement. In public hospitals too, the medical services are not fully free of cost. **Figure 1** shows how the health care expenses are met in the event of hospitalisation.

It is seen that only 58 per cent people undergoing treatment in urban areas and 41 per cent in rural areas meet the health care expenses from household savings. 23 per cent in urban areas and 41 per cent in rural areas need to borrow if they undergo medical treatment. Moreover, 8 per cent in urban areas and 6 per cent in rural areas are forced to sell household assets.

The right to health and health care requires the State to ensure, among other obligations, the availability of functioning public health care facilities, goods and services in sufficient quantity, access to and affordability of health facilities and goods and services, based on the principle of equity and non-discrimination. Equity demands that poorer households should not be disproportionately burdened with health

expenses as compared to the richer households. The NSS survey results show that India has failed on all of these counts. The fact that there is a significant proportion of untreated persons in urgent need of medical attention. Absence of



Source: N.S.S. Report 507, 60th Round

medical facilities, the delay in accessing health services and the unaffordability of health care services are the major hurdles in the way forward to the realisation of the objective of health for all.

-CDHR Team

Implementation of the Sachar Committee Report on the Status of Muslims in India

Muslims in India have been rallying for the implementation of the recommendations of the Prime Minister's High Level Committee on Social, Economic and Educational Status of the Muslim Community of India. The seven member Committee, headed by Justice Rajinder Sachar, former Chief Justice of the Delhi High Court submitted its report to the Prime Minister in November 2006. The report is part of a campaign intended to bridge the gap between the

economic status of the country's majority Hindus and its minority Muslim population.

It was set up in March 2005, to obtain relevant information from departments and agencies of the Central and State Governments and conduct an intensive literature survey to identify published data, articles and research on relative social, economic and educational status of Muslims in India at all administrative levels. The Sachar Committee began collating data since August 2005, after visiting several states, holding talks with government departments in the states of Uttar Pradesh, Bihar, Madhya Pradesh, Gujarat, Delhi, Rajasthan, Andhra Pradesh and Karnataka, NGOs and Muslim welfare organizations.

Muslims in India account for 140 million of India's 1.1 billion population and comprise the world's third largest Islamic population, after Indonesia and Pakistan. Of late, the Prime Minister of India, Dr. Manmohan Singh has been very vocal in advocating at all fora that, programmes are needed to address the economic backwardness and particularly the educational needs of the Indian Muslim community. He also stressed on the need of the government to devise plans to ensure that minorities reap the benefits of development and that a database is necessary for "planning, formulating and implementing focused interventions" to ensure "equitable and inclusive" development of Indian Muslims.

More specifically, the report answers (in both absolute and relative terms), inter alia, questions regarding patterns of geographical distribution and economic activity, asset base and income levels, socio-economic development indicators including literacy rates, school dropout rates, maternal and infant mortality rates, as well as access to education and health services, municipal infrastructure, bank credit, and other services provided by government/public sector entities. The statistics also include

the share of public and private employment proportionate to their population in various states and lastly, proportion of Other Backward Classes (OBCs) from the Muslim community in the total OBC population in various states. The report also explores whether the Muslim OBCs are listed in the comprehensive list, prepared by the National and State Backward Classes Commissions and adopted by the centre and state governments for reservation purposes.

The Sachar Committee Report has emerged with a disturbing conclusion that Muslim communities in India exhibit 'deprivation' in practically all areas of development, as they fare poorly on all socio-economic indices. They are grossly under-represented, relative to their populations across all government institutions, even in states under minority-friendly rule.

To move this report beyond the debating stage, at the behest of the Prime Minister, relevant extracts from the report including its recommendations were sent to several key Ministries. These Ministries were asked to get back with their comments, which would be discussed at a meeting chaired by the Principal Secretary to the Prime Minister. The key issues on which responses have been sought include; incentives in education, public and private employment and housing where fiscal benefits would accrue to those who provide more opportunities to disadvantaged Muslims.

There are also suggestions for the transfer of funds from the Jawaharlal National Urban Renewal Mission, to provide Muslim children access to parks and libraries. There is also a plan to provide villages with electricity, roads, drinking water along with minority representation in self-government and panchayats. In recent months, Dr. Singh has also urged regional political leaders to provide better access to education for Muslims as well as recruit more Muslims into police and intelligence

agencies to help counter any growing sense of insecurity within the community.

In fact, in what is seen by many as ‘the first affirmative action policy’, the Manmohan Singh government’s Department of Personnel and Training sent a note to all “heads of departments, public sector banks and financial institutions, quasi-government organisations, autonomous bodies etc and all appointing authorities,” asking them to “scrupulously observe” guidelines in order to make selection panels more representative. More importantly, the departments were told to submit half-yearly and annual reports, beginning March 2007, detailing the number of vacancies at all levels (Group A, B, C and D) and the number of minorities hired.

In fact, as Seema Chisti notes, the significant point is that, given the political sensitivity of the subject, the government has been careful to not single out Muslims (the context of the memo is the implementation of the 15-point programme for the welfare of minorities). (www.indianexpress.com, 10th February, 2007)

Although, nothing has been particularly mandated for the states, the note says that the Central and state governments are “expected” to give special consideration to minorities in job appointments. However, the order asks the Home Ministry to “furnish suitable guidelines to the state governments for recruitment/ representation of minorities in state police forces.” Former Chief Justice Ranganath Mishra has also been appointed to head a one-man Commission to look at the status of non-Muslim minorities and recommend ways of helping them get better representation in government jobs.

Although criticised by the rightist political parties, this report found much favour with the Muslims and also the Janata Dal (United) (JDU) Party. The JDU President,

- *As many as 25 per cent of Muslim children in the 6-14 age group have either never attended school or have dropped out. (Pg –58)*
- *Less than 8 per cent of Muslim workers in urban areas are employed in the formal sector, as compared to the national average of 21 per cent. (Pg – 96)*
- *In rural areas, while about 70 per cent of Hindu women participate in the workforce, only about 29 per cent of the Muslim women do so. (Pg – 90)*
- *Overall, Muslim representation in the judiciary is about 7.8 per cent; the OBCs constitute about 23 per cent and the SCs/STs about 20 per cent. (Pg – 174)*
- *Of the 543 candidates in the current Lok Sabha (Lower House of Parliament) only 3.6 per cent are Muslims. (Pg – 187)*

Source – Social, Economic and Educational Status of the Muslim Community of India- A Report, Prime Minister’s High Level Committee, Government of India, November 2006.

Sharad Yadav, came forward to support Muslims demanding the report’s implementation and said: “Dalit Muslims are facing the same problems as Dalit Hindus and Dalit Christians. So they should get their rights according to the Indian Constitution.” Other prominent Muslim leaders like Anwar Ali, who have proclaimed that it is time the Muslim community came forward for its own rights, have also echoed this need.

- **CDHR Team**

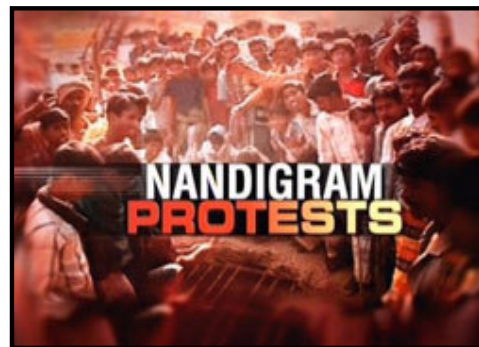
Nandigram violence: Industrialisation at what cost?

"We are promise-bound to the people (of West Bengal) to take the State forward and not back into darkness; this is our commitment ... For those yet to be convinced (of the need for industrial development) the onus is on us to get them to understand", said Buddhadeb Bhattacharya, Chief Minister of the state of West Bengal, addressing a mass rally organised by a peasant's organisation in Kolkata on 11th March 2007. Soon after, on 14th March 2007, 14 people were killed and 75 others injured in an incident involving open police firing at a village crowd in Nandigram in East Midnapore district in West Bengal.

Nandigram is a rural area located around 150 kilometres from Kolkata, on the south bank of the Haldi River, opposite the industrial city of Haldia. Comprising mostly of poor or middle class farmers who earn their living primarily through agriculture and estuarine fishing, Nandigram had seen little industrial development till the state government declared it to be the site for a chemical hub to be set up by Indonesia's Salim group, in pursuance of the Central government's recent Special Economic Zone (SEZ) policy. The peaceful village was transformed into a centre of civil unrest when the government announced its plans to acquire agricultural lands from the villagers against their wishes, despite its earlier assurance that land would not be acquired without local consent.

Violence first erupted in Nandigram on 6th January 2007, when it became public that the West Bengal government was planning to acquire land in the area. Clashes between Communist Party of India (Marxist) (CPIM) and Trinamool Congress activists claimed 6 lives. Since then, the villagers had blocked entry into the area by digging up roads and breaking bridges, as a mark of their protest against forced

land acquisition. Trouble simmered when the police tried to break into the restricted area and was confronted by a 5,000 strong crowd, which resisted their entry by throwing bricks at them. Initially, the police countered the attack with rubber bullets, teargas and lathicharge but when they were unable to disperse the crowd, they open fired. It was reported later that several people went missing after the police-firing incident and there have also been complaints of women being sexually assaulted by police personnel, in the aftermath of the violence. (*The Statesman*, 20 March 2007)



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The Governor of West Bengal condemned the killings as filling him with a "sense of cold horror". Former Chief Minister of West Bengal and veteran political leader, Jyoti Basu criticised police handling of the situation. The incident also attracted criticism from within the Left's allies in the state like the Communist Party of India (CPI), Forward Bloc and Revolutionary Socialist Party (RSP) who threatened to withdraw support from the government, if police forces were not immediately withdrawn from the affected villages. The Calcutta High Court immediately ordered the West Bengal government to initiate a Central Bureau of Investigation (CBI) probe into the matter. The Indian National Human Rights Commission (NHRC), taking *suo motu* cognisance of newspaper reports about the killings, has duly issued notices to the West Bengal bureaucratic and police chiefs, seeking a factual report on the incident within two weeks.

The West Bengal government has also ordered an executive inquiry into the incident. The CBI has already submitted its preliminary inquiry report to a division bench of the Calcutta High Court.

After the news of police firing spread, there were instances of violent and widespread protests in Kolkata and other districts of West Bengal. A bandh was jointly called by the political opposition in the state. Thousands of protestors took to the streets and violently agitated against the indiscriminate police action by burning vehicles and blocking roads. This incident sparked off a series of protests all across India. Several civil rights groups staged their protests in New Delhi. Social activist, Medha Patkar termed the Nandigram violence as a “pre-planned” and “deliberate” attempt by the West Bengal government to suppress all kinds of protests by poor farmers against forced land acquisition.

Many families in Nandigram have been displaced and are living in relief camps, since trouble began in the area. Testimonies from the village residents reveal that there has been looting and destruction of private property, allegedly by both the CPI (M) and Trinamool Congress. One Ms. Gita Das alleged that her belongings like clothes, blankets and children’s school stationery had been destroyed by members of the Trinamool Congress backed Bhumi Uchhed Pratirodh Committee (The Committee for Resistance against Land Acquisition). She was allegedly threatened and verbally abused and asked to pay Rs. 5,000 to support their cause. There have been reports of poor people being ousted from their homes and their houses being burnt by Committee members. (*The Hindu, 21 March 2007*)

Another man, Satyen Karan was beaten up when he protested against those looting his shop in Tekhali Bazaar in the area. (*The Hindu, 19 March 2007*) Meanwhile, sporadic clashes

between the CPI (M) and the Trinamool Congress continue, with each party accusing the other of spurring hostility. Both the parties have been involved in burning houses of poor, innocent villagers in Nandigram and neighbouring villages, for regaining their political stronghold in the area. (*The Times of India, 19 March 2007*)

In response to mass protests and demonstrations against police violence and succumbing to pressure from its political allies and opposition alike, the Left government has temporarily withdrawn the land acquisition process in Nandigram and has decided to remove police forces in phases from the region. The government has taken responsibility for the killings in Nandigram. Speaking before the State Legislative Assembly, Chief Minister, Buddhadeb Bhattacharya described the killings as “unfortunate” but justified police action by stating that they acted in self-defence. He said that the police forces were sent to restore the law and order situation in Nandigram and not to acquire land. He reiterated his earlier claim that lands would not be acquired for industrialisation purposes unless the local population was ready for it. The Chief Minister has further stated that the Nandigram SEZ would be relocated elsewhere (*The Times of India, 29 March 2007*).

It comes as a great shock that the Marxist government in West Bengal would use such brutal force to silence peasant protestors, who constitute their greatest support base in the state. The Nandigram massacre is a blemish on the pro-peasant image of the Left that it had built over the years with their liberal, pro-poor policies on land reforms and decentralisation. The Nandigram incident raises questions about disproportionate use of force by the police in tense situations. A similar incident had occurred in Kalinga Nagar in the state of Orissa in January 2006, when the police opened fired in order to diffuse a huge crowd of villagers who were protesting against acquisition of their lands by

the Tatas for purposes of industrialisation; killing and injuring several villagers. The larger issue involved in such cases is that of loss of land and livelihood by the affected villagers. It is encouraging that the government is in the process of finalising a new National Resettlement and Rehabilitation Policy, which, hopefully will address the concerns of those worst affected by such land acquisitions. The age-old colonial Land Acquisition Act of 1894 that still governs the process of land acquisition in India requires immediate review and reform. If equitable development is to be ensured, the government will have to put in place proper legal mechanisms to implement its industrialisation process.

- CDHR Team

Using the “development compact” model to implement the Right to Development

The open ended Working Group on the Right to Development (RTD) was established by the United Nations Commission on Human Rights (UNCHR) by its resolution 1998/72. The mandate of the Working Group is to monitor and review the progress made in the implementation of RTD, review reports submitted by States and international/ non-governmental organisations and submit a sessional report to the UNCHR. The High-Level Task Force on the Implementation of the Right to Development was set up within the framework of the Working Group on the Right to Development by the UNCHR by its resolution 2004/7. The task force aims to provide the necessary expertise to the Working Group to enable it to carry out its functions effectively. The task force comprises of five experts nominated by the Chairperson of the Working Group, in consultation with regional groups of the Member-States and

members of international trade, financial and development institutions.

Prof. Arjun Sengupta, during his tenure as the United Nations Independent Expert on the Right to Development (RTD) tried to develop a model for the implementation of the RTD framework. Prof. Sengupta conceptualised RTD as the right to a process of development, which enables the fulfilment of all fundamental rights and freedoms and expands the basic capacities and abilities of an individual to enjoy their rights. He suggests a step-by-step approach for the realisation of RTD, by realising three basic rights- right to food, primary education and health. In this regard, he recommended the use of “development compact” model to implement the RTD framework.

This is a programme of coordinated action between the developing countries and members of the international community, i.e. donor countries and international financial institutions. The “development compact” approach emphasises on the aspect of international cooperation; wherein developing countries undertake to fulfill their human rights obligations and the international community provides resources and shares costs. Although the “development compacts” are country-specific, they should be supported by international assistance and action in the areas of trade and market access, debt adjustment, transfer of resources, protection of migrants and labour standards and restructuring of the international financial system to give developing countries greater decision making power and increase capital flow into developing economies.

In a resolution passed by the United Nations Human Rights Council (1/4), adopted on 30th June 2006, it was decided that the mandate of the Working Group on the Right to Development would be renewed for a period of one year. In accordance with the above-mentioned resolution, the eighth session of the

Working Group held its meeting in February 2007. The task force also met earlier in January 2007. Prof. Stephen Marks (United States of America) was elected Chairman-Rapporteur of the task force. The task force deliberated on the statements presented by Member-States and institutions like the European Union (EU) and Non Aligned Movement (NAM). The main theme of this meeting was the application of the RTD criteria for the evaluation of global development partnerships like the African Peer Review Mechanism (APRM), The United Nations Economic Commission for Africa (ECA)- and Organisation for Economic Cooperation and Development (OECD) – Development Assistance Committee (DAC) Mutual Review of Development Effectiveness in the context of the New Partnership for Africa’s Development (NEPAD) and the Paris Declaration on Aid Effectiveness.

The aim of the task force is to devise specific operational strategies to apply the RTD criteria to global developmental partnerships. In other words, the task force should formulate a comprehensive and coherent set of standards to implement the RTD. The task force derived a set of sub-criteria or performance benchmarks, from its discussions and evaluation of the aforementioned partnerships. The application of the RTD criteria should be done on a pilot basis, as the right is ‘interdependent and indivisible’ (Article 9(1), Declaration on the Right to Development). A review of the partnerships has shown that they can be improved in the areas of accountability, ownership, non-discrimination, participation and human rights impact assessment. The task force also considered in great detail the methodological approaches to the application of the RTD criteria to ensure that the criteria becomes universally applicable to evaluate global development partnerships in a more effective manner. There is also an urgent need to devise adequate follow up mechanisms to review these global development partnerships.

In view of these findings, the task force made certain recommendations to ensure effective implementation of the RTD. It was recommended that the RTD criteria be further refined and that a dialogue be continued with the global development partnerships to locate potential areas of cooperation and congruence. There should also be technical visits to each of these institutions to discuss how to implement the RTD criteria effectively. The task force also recommended that the participation of international financial and development organisations like the World Bank, IMF, UNDP, UNCTAD and WTO is necessary to follow up or review the application of the RTD criteria. The application of the RTD criteria should be implemented over several phases and more such global partnerships should be identified for the application of the criteria in the near future.

The eighth session of the Working Group on the Right to Development took note of the conclusions and recommendations made by the task force with regard to the application of the RTD criteria for translating the conceptual RTD framework into universal developmental practice. At the same time, it recognised that the RTD criteria needs further review of their structure, coverage of aspects of international cooperation and methodology. The Working Group recommended that the RTD criteria be further applied to other global development partnerships, using the approach outlined by the task force and taking into consideration, the suggestions made by the Working Group, in this regard. It also recommended that the task force proceed gradually in a phased manner, based on “rigorous empirical analysis and constructive consolidation of its findings”. To ensure better implementation of the programmes, the Working Group recommended that the Human Rights Council renew the mandate of the Working Group and the task force for a further period of two years. The Human Rights Council is considering passing a resolution, extending the mandate of the Working Group and task force as

recommended, in its fourth session (12-30 March 2007).

- *CDHR Team*

RIGHTS – COMMENTARIES

Speedy justice coming to the grassroots

The Gram Nyayalaya (Village Courts) Bill of 2005 has been circulated again to the stakeholders for their comments. This draft Bill authorises the state governments to facilitate greater access to justice, in both civil and criminal matters, and to establish a Gram Nyayalaya for every intermediate panchayat or panchayat samiti (village assembly) or block in a district. The Gram Nyayalayas and Nyaya Panchayat (Village Alternative Dispute Resolution System) Bills, under government consideration, thereby seek to deliver expeditious and inexpensive justice at the grassroots.

In this Bill, the Gram Nyayalaya is described as the lowest judicial court in the State. It comprises of two schedules, the first enumerating the offences and the second providing details of civil suits which will be placed under the jurisdiction of the Gram Nyayalayas.

The Government is also intending to set up a system of participatory justice through Nyaya Panchayats. These panchayats with well-defined jurisdiction and powers at a level below the Gram Nyayalayas, will function as an adjunct to the regular panchayats. Civil matters that are considered under appropriate jurisdiction of the Nyaya Panchayats are disputes over agricultural land, the right to cultivation and

grazing on common pastures, disputes over cultivation, the right to draw water from canals or tube-wells or incidental questions arising in villages. The jurisdiction can also cover denial of social justice and non-payment of minimum wages.

In pursuance of one of the goals mandated by Article 39A of the Indian Constitution, the Nyaya Panchayat will be a forum for people's participation in the administration of justice. It shall aim at establishing an alternative dispute redressal system through mediation, conciliation and compromise at the grass-roots level that is required to be institutionalised with people's involvement.

The draft Nyaya Panchayat Bill, 2006 aims to provide for composition of the Nyaya Panchayat by election with reservation for women and the Scheduled Castes and Scheduled Tribes. A Nyaya Sahayak (Legal Assistant) will provide legal information to the Nyaya Panchayat, which will report to the Zilla Panchayat, which in turn will submit a report to the state government giving a full account of resolution of disputes. This report will be laid before the State Legislative Assembly.

National Commission for Women seeks relief for women in live-in ties

The National Commission for Women (NCW) has recommended that a woman in a live-in relationship should be allowed to seek maintenance, if she is deserted or shunned by her partner. The NCW has sought to do so by suggesting that the scope of Section 125 of the Criminal Procedure Code (Cr.P.C) be enlarged to include women in live-in relations so that they can claim monthly allowance or maintenance, if deserted. Currently, under this Section, only wives, legitimate or illegitimate children and parents are eligible for maintenance.

The Commission cited the recently notified Protection of Women from Domestic Violence Act, 2005 wherein 'a domestic relationship' has been defined broadly to include any relationship in the nature of marriage. It stated that, if the benefits of the Domestic Violence Act can be extended to women in a relationship in the nature of marriage, "there is no reason why provisions of Section 125 of the Cr.P.C should not extend to them". It said "there are many instances where a woman unwittingly enters into wedlock with a man or they live together in a relationship like marriage and are later deserted or shunned." In such cases, the woman is left with little or no sustenance. NCW cited the example of a woman from Gujarat who had approached the Supreme Court to claim maintenance from her so-called husband who had deserted her for another woman. The woman could not prove the fact of her marriage and in such a situation, the Court was unable to provide any relief to her, in the absence of a provision of law. The Court had observed that it was for the legislature to include such women within the ambit of Section 125 of Cr.P.C. It should be noted here that while Section 125 of the Cr.P.C protects the interest of an illegitimate child, it does not protect a woman who is not legally married. Thus, a woman claiming maintenance has to prove that she was lawfully wedded to the man before she was deserted. However, the NCW was silent on the duration of such live-in relations to qualify for maintenance.

Kamini Jaiswal, advocate and women's right activist, said that the suggestion recognised the "realities of today". But she also suggested that live-in relationships should be defined to avoid the problems that arise when women get caught in legal wrangles (*The Telegraph*, 27 December 2006) Even Ranjana Kumari, Director of Centre for Social Research, welcomed the NCW move and said that "extending legal protection to women in live-in relations would provide adequate protection to them when men

deny the relationship". (*The Hindustan Times*, 27 December 2006)

Besides, a 2003 recommendation by the Justice Malimath Committee on Reforms of Criminal Justice System states that if a woman has been in a live-in relationship for a reasonable period of time, she should enjoy the same legal rights as a wife. It is said that if the government accepts this recommendation, the term 'wife' might be redefined in law. For many, this may be a step in the right direction in this fast changing society, while many others feel that India is not yet ready for such a law. But the reality is that, in India, while the break up of a legal marriage puts the woman at a disadvantage, a woman in a live-in tie suffers even more as a result of the break up and becomes an 'abandoned woman'.

U.S Report on Human Rights in India

The United State of America's State Department released its annual country reports on human rights practices on 7th March 2007. It voiced concern that India faced 'numerous serious problems' like extra-judicial killings of persons in custody, disappearances, torture and rape by police and security forces. It also acknowledged lapses in India's handling of terror suspects.

The report said that government officials used special anti-terrorism legislation to justify 'excessive use of force' while combating terrorism and active violent insurgencies in Jammu and Kashmir and several north-eastern states. Officials of the security forces who committed human rights abuses generally enjoyed *de facto* impunity, although there were investigations into individual abuse cases resulting in punishment of some perpetrators by the court system. Although the country has numerous laws protecting human rights, enforcement was lax and convictions were rare.

'Corruption is endemic in the government and police forces, and the government has made little attempt to combat the problem, except for a few instances highlighted by the media', the report said. It also stated that the government had continued to apply restrictions to the travel and activities of visiting experts and scholars. Unusually, the Congressionally mandated annual report card of 196 countries acknowledged that the United States, too, had fallen short on international standards in its handling of terrorist suspects and said 'Our democratic system of government is not infallible but it is accountable'.

Poor prison conditions, lengthy pre-trial detention without charge, and prolonged detention while undergoing trial, remained significant problems. Domestic violence and abuses against women such as dowry-related deaths, honour crimes, female infanticide and foeticide, and trafficking of persons are significant problems along with exploitation of indentured, bonded and child labour. Incidentally, the report also said that in a departure from the culture of secrecy that traditionally surrounded the government's rule-making, the government passed the Right to Information Act in 2005, mandating stringent penalties for failure to provide information or affecting its flow, and requiring agencies to self-reveal sensitive information.

South Asian Policy Conference on Home-based Workers

Inaugurating the three-day South Asian Policy Conference on Home-based Workers organized by the Self-Employed Women's Association (SEWA) and UNIFEM in January 2007, Prime Minister, Dr. Manmohan Singh announced that the government is working on a Bill for microfinance institutions to help create a friendly policy environment for microfinance services. While the Conference intended to

propose country-specific policies for home-based workers, within the framework suggested by the ILO Convention, Dr. Singh emphasised that these must reach the poor in far greater number to build their capacities in order to absorb higher amount of credit.

Stating that women's empowerment should be a major objective of our social, political and economic policy, Dr. Singh stressed that the key to empowerment of all people is education and the assurance of gainful employment. He added that our main challenge is that of increasing the skills, productivity and earnings of home-based workers. Most home-based workers happen to be women and it should be our solemn and common resolve in South Asia to ensure gender equality.

This has been a key guiding principle of the National Common Minimum Programme adopted by the Indian Government in 2004. As a civilized society, modern polity and developing economy, India cannot ignore the aspirations and the rights of women. Women are mostly found at the lower end of the production ladder and in the informal economy as they also face a cultural bias to be in home-based work.

In India, 57 per cent of all women workers are home-based, belonging to many different categories. Some are artisans, while others work in small household enterprises, often ancillary to large units. Some home-based workers make products for contractors, the last in the chain of production. As our economies become more globalised, these home-based workers are becoming part of a global value chain. Unfortunately, most of them receive very low levels of income due to a chain of middlemen through whom they work.

While internationally, the ILO Convention No. 177 of 1996 represents a watershed in the progress of the movement of home-based workers for recognition and for

human rights, closer to home in October 2000, significant progress was made when the UNIFEM Conference on the Rights of South Asian Home-based Workers adopted the Kathmandu Declaration. The Declaration highlighted the need for a national policy on home-based workers in each country. The Indian government has provided funding for implementation of the recommendations of that Declaration. The Kathmandu Declaration identifies certain areas in which the deprivation faced by home-based workers needs to be addressed. These include the “invisibility” of home-based workers, especially women, social protection, skill building, technology development, marketing skills, credit availability; and, finally, effective organisation and political participation.

India has tried to overcome the “invisibility” of home-based workers by ensuring that they are covered by our statistical systems. The 1999-2000 National Sample Survey Round surveyed home-based workers for the first time. These estimates show that there are over 28 million home-based workers in India. This collection of appropriate statistics should be continued and expanded to find out more about their work, earnings, skill levels and what more needs to be done to enable them to lead a life of dignity and self-respect. Processes need to be put in place that will ensure that the benefits of progress reach the most disadvantaged sections of our population, particularly the home-based workers. The unprecedented increase in the demand for handicrafts at home and abroad has helped crafts-persons to secure access to finance and markets. Many have successfully made the transition from traditional to modern techniques. This needs to be encouraged and spread over other sectors where women home-based workers are employed in large numbers.

The Approach Paper to the Eleventh Plan is committed to increasing funds substantially for vocational training. Another

problem is that of credit availability. Microfinance has become an important instrument in reaching credit to poor and tiny enterprises. Thus, the Indian government is working on a Bill on microfinance institutions to help create a friendly policy environment for microfinance services. The “invisibility” of home-based workers is also attributable to the media. The media should pay more attention to their needs. The social security needs of home-based workers also need to be addressed.

Right to livelihood vs. Right to environment: The case of salt workers in Little Rann of Kutch, Gujarat

The Little Rann of Kutch has earned the dual distinction of being one of Asia’s largest wildlife sanctuaries and a vast repository of salt. In 1996, a local NGO, Dhrangadhra Prakriti Mandal, approached the court to stop the government from denotifying the sanctuary. It was argued by the petitioners that if the salt industry were allowed to expand operations in the region, it would lead to encroachment by the khar (wild ass) population on agricultural lands in the area. With the saltpan area in the region expanding, sanctuary protected land is being increasingly used for salt mining, with the permission of local authorities in the area, in total violation of the forest conservation and wildlife protection laws. A central government notification in 1997 declared the Little Rann of Kutch as one of the six bio-diversity zones in India.

The notification that was implemented recently came as a rude shock to the illiterate salt workers who were sent eviction notices to clear out of the sanctuary area by the state forest department. The notification required the local forest dwellers to file applications with documentary evidence establishing their rights to stay on sanctuary territory within 60 days of the

issue of the notification. Since, the salt workers were not made aware of these requirements earlier by the authorities, they were left vulnerable, on the service of eviction notices. The Little Rann of Kutch region has 107 villages with a population of almost 50,000, within the sanctuary area. Salt manufacturing is the only source of livelihood for almost all families in the region. The state authorities are unwilling to allow these families to file applications as required by the notification, as they believe that these applications staking claim on the land were to be filed in 1997, when the notification was issued. If these families continue to stay within the sanctuary premises, they may be fined for Rs. 25,000 or face a three-year prison term. Since, these poor salt manufacturing families will not be able to pay a fine of Rs. 25,000, they are prepared to go to prison instead, where they know that, at least, “the government will feed them”.

The conflict between the right to livelihood and right to environment is not unfamiliar in the Indian context. The judiciary has had to address the conflict between preservation of environmental resources and the right of traditional communities to use those resources on several occasions. Given the void in government policy addressing this conflict, the judiciary has stepped in to fill the gap. In the case of *MC Mehta v. Kamal Nath* ((1997) 1 SCC 388), the apex court upheld the doctrine of ‘public trust’ and held that the State should act as a trustee for all natural resources and ensure that these resources are protected for public use and not transferred to private hands. The apex court has also held in the case of *Olga Tellis v. Bombay Municipal Corporation* ((1985) 3 SCC 545) that deprivation of livelihood should follow ‘due process of law’ and should be “fair, just and reasonable”. This signifies that, in cases of eviction, a proper procedure of serving notice and a fair hearing to the evacuee must be followed. In the case of salt workers in the Little Rann of Kutch region, the lack of information

about the government notification and the unwillingness of the authorities to allow them enough time to file their applications to claim their traditional rights on the land, imply abuse of ‘due process of law’ and is thus, a violation of the fundamental right to life under Article 21 of the Constitution of India.

Gender Budgeting in Madhya Pradesh

The Indian state of Madhya Pradesh (MP) presented its budget in the last week of February 2007 and took the lead by becoming the first state in the country to introduce women-responsive budgeting in thirteen departments. Madhya Pradesh has not just allocated more resources towards women-specific schemes but also looked at “gender neutral” departments like industry to make them more women-friendly. Gender budgeting is increasingly gaining acceptance as a tool for engendering macro-economic policy-making. Gender budgeting is not a separate budget for women; rather, it is a dissection of the government budget to establish its gender-differential impacts and to translate gender-commitments into budgetary commitments.

While Australia was the first country to develop a gender-sensitive budget, in India, a gender perspective on public expenditure had been gaining ground since the publication of the report of the Committee on the Status of Women in 1974. The Eight Five Year Plan (1992-97) had, for the first time highlighted the need to ensure a definite flow of funds from the general developmental sectors to women. The gender budgeting initiative in India started in real earnest when a workshop on ‘Engendering National Budgets in the South Asian Region’ was held in New Delhi in July 2002 in collaboration with UNIFEM, in which Government representatives, UN agencies, media, NGOs, research institutions, civil society organisations and members of the Planning

Commissions in the South Asian region participated. Besides, the National Policy for Empowerment of Women, 2001 had also committed that gender development indices shall be developed by networking with specialised agencies.

In MP, the gender budgeting cell has been set up under the Director (Budget) to monitor the flow of funds to women-specific schemes in thirteen departments. This has resulted in a 24 per cent increased allocation with some new schemes as well as an increase in the allocation for existing ones. There are two categories of schemes – one, where hundred per cent expenditure is allocated for women and two, where thirty per cent of the provisions of the scheme are allocated for women. There has also been a reduction of Value Added Tax (VAT) on items like sewing machines and its parts, baby food, and raw material used in making handloom saris including silk and zari. The Department of Women and Child Welfare has introduced five new schemes enhancing the budgetary allocation aimed at improving the female sex ratio and health and literacy indicators for girls in the state. The Department of Industry has stipulated that at least, thirty percent of allocation made under the Pradhan Mantri Rozgaar Yojana should be for women.

In fact, this move was preceded by several workshops conducted with the MP Government in making the budget women-friendly. These workshops were undertaken by a Delhi-based organisation called PowerConnect. As Rashmi Verma from PowerConnect says, “Gender budgeting means recognising underlying gender inequalities and addressing them through allocation of public resources.” (*The Indian Express*, 27th February 2007)

Now, the crucial step for MP is to introduce it at the district level. The government is institutionalising the generation of gender-disaggregated data and departments are being

asked to revise their reporting formats so that data regarding beneficiaries is known on the basis of gender. “Sex-disaggregated data is the first step towards effective gender budgeting, something that the Government of India needs to do,” said Verma of PowerConnect. While states like Kerala and Karnataka have adopted the bottom-up approach (at the panchayat level), Gujarat, Tamil Nadu and Orissa have tried introducing it in a few schemes at the macro-level.

India’s Budget 2007-08

India’s budget of 2007-08 claims to have put the common man or “aam aadmi” at the top of its agenda. The Finance Minister, P. Chidambaram further claimed that this budget affirmed the three previous budgets of the UPA government and stabilised the current economic situation.

The Finance Minister observed that a higher rate of economic growth is required to reduce widespread poverty in India. He said in Parliament, “Our human and development indices are low, not because of high growth but because growth is not high enough”. The budget indicated a growth in the GDP rate from 7.5 per cent in 2004-05 to 9.2 per cent (advanced estimate) in 2006-07 (year ending 31st March 2007). However, with an increase in GDP growth, India has also witnessed spiraling inflation rates in the past two years. Chidambaram expressed concern over rising prices and said that the key would be to maintain high rates of economic growth, fiscal prudence and high investment. The budget increased government spending by 21 per cent to Rs. 6.81 trillion (US \$ 154 billion).

The budget has also focused on improvement in the education, health and agricultural sector. In fact, asserting that agriculture is the main plank of the budget, the Finance Minister said, “ In my view, industry

and services are doing well, growing by double-digits. Therefore, this budget has turned its attention towards the agricultural sector”(Tribune News Service, February 28, 2007). It aims to increase average annual growth in this sector from 2.3 to 4 per cent by 2011-12. The budget has increased allocation substantially for rural development and agricultural credit. It has been estimated that higher allocation of resources for the agricultural sector is crucial for the fulfillment of the government’s aim of reaching 10 per cent economic growth by 2011-12. Despite these tall claims of reviving the agricultural sector, the share of agriculture in the total GDP has been on a constant decline. About 60 per cent of India’s population is dependent on agriculture yet the agricultural sector accounts for less than one-fifth of India’s GDP. (BBC News, 28 February 2007)

The government has urged the business sector to support investment in the rural sector, to promote equitable economic development in India. The Finance Minister suggested that the corporate sector has been able to reap maximum benefits from the economic boom in India, unlike the agricultural sector and therefore, it is necessary that rural India prospers.

The allocation for rural programmes like the Bharat Nirman has increased by 31.6 per cent. The budget provides that the National Rural Employment Guarantee (NREG) Scheme shall be extended to 130 more districts, making the total number of NREG districts 330. The allocation for the scheme has increased from Rs, 11, 300 crores in 2006-07 to Rs. 12,000 crores in 2007-08. Although, there has been a 43 per cent increase in the number of NREG districts, the increase in allocation for the same has been a mere 6 per cent. The marginal increase in the allocation has been attributed to under utilisation of the previous year’s allocation (Only 21 per cent

was utilised). However, it should be kept in mind that the NREG Scheme is a demand driven scheme and last year’s diminutive expenditure levels should not be a benchmark for the current year. The budget should have, instead woken up to the need for a greater increase in the allocation for the NREG Scheme.

The government has also focused on social spending in this budget. It announced a 34.2 per cent increase in public spending on education, 21.9 per cent on health programmes and higher allocations for rural credit and insurance. This move has been described as facilitating “faster and more inclusive growth”, as it allows the underprivileged, marginalised sections of the population to reap the benefits of economic growth. The budget outlay for women has increased to Rs. 8, 975 crores from Rs. 4, 618 crores, but it constitutes merely 0.1 per cent of the total budget. The share of resource allocation for children in the budget has reduced by 1.23 per cent. The allocation for the Sarva Shiksha Abhiyan (SSA)/ The “Education for All” Movement has been reduced. The allocation for the Integrated Child Development Services (ICDS) has also been enhanced by mere Rs. 673.46 crores, which is insufficient to meet the goal of universalisation of ICDS by 2008. Another disappointment has been the reduction of allocation for reproductive and child health programmes, despite India’s abysmal maternal and child health indicators. Despite an overall increase, health spending only comprises 0.2 per cent of India’s GDP, which is way behind the government’s Common Minimum Programme (CMP) commitment of 3 per cent of GDP.

Caste or Race: Problems of Discrimination - The CERD Report

The Committee on the Elimination of Racial Discrimination (CERD) in its concluding observations on India's 15th to 19th periodic reports regarding its compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) reaffirmed its earlier stand expressed in its General Recommendation No. 29 that caste-based discrimination is covered under the definition of racial discrimination under Article 1 of the ICERD. Earlier, Solicitor General of India, Mr. Goolam E. Vahanvati stated before the CERD that the Indian government "is deeply conscious and concerned about caste and is fully committed to tackling this at every level... (However), these issues need to be and are being addressed under appropriate multilateral human rights instruments, which does not include this Convention." (*United Nations Press Release, 26 February 2007*)

The Indian government's denial of the existence of racial discrimination in the context of caste-based discrimination is not new and remains a largely contested claim. The Indian delegation to the CERD resorted to a purely rhetorical debate, arguing on sociological grounds that caste cannot be equated to race and therefore, caste-based discrimination does not fall within the ambit of the ICERD. In fact, Mr. Linos-Alexander Sicialanos, Country Rapporteur, CERD referred to a recent statement by Dr. Manmohan Singh, the Indian Prime Minister where he equated the discrimination faced by Dalits in India to apartheid in South Africa. Mr Sicialanos observed that in the context of the Prime Minister's statement, the Indian government's stand on caste-based discrimination is untenable. (*CERD/C/SR.1796*)

Dalits have faced a unique discrimination in our society that is fundamentally different from the problems of minority groups in general. The only parallel to the practice of "untouchability" was Apartheid in South Africa. Untouchability is not just social discrimination. It is a blot on humanity. That is precisely why the Father of our Nation, Mahatma Gandhi declared, "My fight against untouchability is a fight against the impure in humanity."

**-Dr. Manmohan Singh, Prime Minister of India,
speaking at the Dalit-Minority International
Conference, 27th December 2007**

The CERD concluded that, "*de facto* segregation of Dalits persists particularly in rural areas, in access to places of worship, housing, education, water sources, markets and other public places", using governmental statistics and findings from the shadow report produced in response to India's submission to the CERD by Human Rights Watch and the Centre for Human Rights and Global Justice titled, 'Hidden Apartheid: Caste Discrimination against India's Untouchables'. It also highlighted systematic abuse against Dalits, including torture and extra-judicial killings, acts of sexual violence against Dalit women and instances of caste-based discrimination in post-tsunami relief programmes.

Some of the startling facts that have been reported include, caste-motivated killings, rapes and other abuses occurring on a daily basis in India. According to the 2005 report of the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs of the Government of India, a crime against Dalits is committed every 20 minutes. Even though the police tend to ignore Dalit complaints, and only a small proportion of incidents of violence against Dalits are registered, the NCRB still reports 26,127 cases in 2005 alone. A total of 162 cases were reported under the Protection of Civil Rights

Act during 2005 as compared to 11 cases in 2004 showing a steep increase of 1372.7% over 2004. The average conviction rate for crimes against Scheduled Castes and Scheduled Tribes stood at 29.8 per cent and 24.5 per cent respectively.

CERD appreciated the existence of Constitutional provisions and legal mechanisms to fight discrimination, based on race and caste in India but regretted the fact that the Indian government failed to produce evidences of measures taken to implement these anti-discrimination and affirmative

Crime Against Persons Belonging to SC/STs in India

	Scheduled Castes (SCs)	Scheduled Tribes (STs)
Incidence of Crime – Indian Penal Code and Special Laws	26, 127 cases	5, 713 cases
Crime rate	2. 4 per cent	0.5 per cent
Incidence of cases under The Protection of Civil Rights Act 1955	291 cases	162 cases
Incidence of cases under The SC/ST (Prevention) of Atrocities Act 1989	8, 497 cases	1, 283 cases
Average charge-sheeting rates for crimes recorded	94. 1 per cent	91.6 per cent
Average conviction rates for crimes which were charge-sheeted	29.8 per cent	24.5 per cent

Source: Crime in India 2005, National Crime Records Bureau, Ministry of Home Affairs, Government of India

action laws and policies in its periodic report. It also expressed concern about India's exclusion of its tribal populations "as distinct groups entitled to special protection" under ICERD. (CERD/C/IND/CO/19) It recommended that India "strengthen its efforts to eradicate the social acceptance of caste-based discrimination and racial and ethnic prejudice, e.g. by intensifying public education and awareness raising campaigns, incorporating educational objectives of inter-caste tolerance and respect for other ethnicities, as well as instruction on the culture of scheduled castes and scheduled and other tribes, adequate media representation of issues concerning scheduled castes, tribes and ethnic minorities, with a view to achieving true social cohesion among all ethnic groups, castes and tribes of India.

The CERD's tough censure of the Indian government's stand on caste-based discrimination has inspired action at other levels. The European Parliament has recently passed a resolution expressing its concern about the plight of Dalits in India and has requested the Indian government to engage with "relevant UN bodies, including CERD". (Human Rights Watch, 12 March 2007). The National Campaign on Dalit Human Rights (NCDHR), along with other Dalit rights groups in India welcomed the CERD's observations and hoped that this would serve as an opportunity to open dialogue with the state which has consistently avoided discussion on this issue on the ground that caste cannot be equated to race.

RIGHTS – BOOK REVIEWS

Development as a Human Right: Legal, Political and Economic Dimensions

**Edited by Bard A Andreassen and
Stephen P. Marks**

**Harvard Series on Health and Human Rights,
Harvard School of Public Health, Francois-
Xavier Bagnoud Center for Health and
Human Rights, A Nobel Symposium Book,
2005, pp. 350, \$ 24.95**



With a foreword by Louise Arbour, UN High Commissioner for Human Rights, this book is a timely collection of excellent scholarly writing on the right to development and the related concept of human rights-based development. It is all the more welcome as the signs of purposive engagement and a gradual convergence of positions are becoming more and more manifest amongst various actors--the member states, international institutions, and civil society- on different aspects of development of relevance to the implementation of this right. I see this in the global consensus articulated in the 2000 Millennium Declaration, the 2002 Monterrey Consensus of the International Conference on Financing for Development and

in the 2005 Summit Outcome. This convergence is even more palpable in the work of the UN human rights bodies dealing with this right, in particular, the Commission on Human Rights, its Working Group on the Implementation of the Right to Development and the High-Level Task Force. Political responsibility has now passed to the newly created Human Rights Council to propose critical steps to make the current process of globalisation work towards improving the well-being of people, in every corner of the world.

After twenty years of reaffirming its value, the right to development should be a high priority on the human rights agenda of governments and civil society everywhere; however, it continues to be more a matter of political commitment than of practical policy and action that can affect people's lives. I believe that two challenges need to be met before this right can be taken seriously in policy and action. The first is to create a robust concept of development, capable of incorporating the principles that underlie the right to development; the second is to identify the practical steps to implement this right, similar to the rights that are operational in the law and administration of Member States.

A Robust Concept of Development

The concept of development has become more robust in recent times and it is more widely recognised that human rights and human development share a common purpose. Development has evolved from material attainments and economic growth, to a broad based notion of human development. As the essays in this book clearly bring out, economic growth is only negative to the extent that it impedes rather than enhances the freedom, well-being and dignity of all people everywhere and threatens the resources on which we depend. Similarly, the increasing exchange of ideas, images, goods, people and money, which we call globalisation, is not necessarily negative if it can

be harnessed to reduce rather than increase disparities, and to empower communities rather than alienate them from the process of development. The real purpose to the right to development is to secure the harmonisation of the aspirations toward the material improvement of the human condition with the aspirations of freedom and dignity. Neither objective is possible under conditions of poverty. Poverty often results from wilful neglect and discrimination. Lack of adequate development or development that permits exclusion and discrimination in access to and allocation of resources paves the way to increased inequality and marginalisation of the poor and the vulnerable. It denies them their human rights. Economic and social inequalities create differences in access to political power, access to justice and access to basic goods and services, all of which are essential for the full realisation of human rights.

The process of development must strive to realise all human rights entitlements of all the rights holders. This is particularly relevant for the poor and the marginalized. For them it is necessary that the development process move away from a needs-based exercise in charity and assistance to one that creates and sustains genuine entitlements that span all aspects of their life--economic, social, and cultural, as well as the civil and political.

Putting Concepts Into Practice

The second challenge the essays in this book underscore is to translate political commitment into development practice. The key here is to anchor the process of empowering people to exercise their choices and freedoms within the human-rights framework. While human rights standards and principles have to provide the parameters for the articulation and the conduct of the development policies and programs, the process has to lead to enforceable human rights and the relevant political, legislative and administrative institutions to

ensure that the benefits of this process will reach the poorest and the most vulnerable.

Development with social justice cannot be achieved in the absence of respect for human rights. Indeed, the possibility for people themselves to claim their rights through legal processes is essential so that human rights have a meaning for those most at the margins, a vindication of their equal worth and human agency. International human rights law emphasises judicial remedies for violations of rights, though administrative remedies can also be acceptable if they are "timely, accessible, affordable and effective." Potentially, all human rights have justiciable elements. Effective judicial enforcement depends more on courts being granted the authority to hear claims, than on the inherent nature of the rights. Similarly, litigation and examination of individual and group petitions at the international level can both help develop understanding of the substantive content of international norms and lead to real change for individuals by helping them to take charge of their lives.

All human rights must be given effect at the national level. The States have the primary responsibility for economic and social development and the role of national policies and development strategies cannot be overemphasized. There has to be an enabling environment--legal, political, economic and social--sensitive and reflective of the local context for the realization of the right to development. The creation of such an environment hinges critically on the individual and collective motivations of States to apply, observe and adjudicate, in the process of development, the human rights standards and the principles of participation, accountability, non-discrimination, equality, empowerment and international cooperation. The principles should guide national development initiatives and inform and inspire the international efforts to "make the right to development a reality for all," in the words of the Millennium Declaration.

The moral and ethical motivations of collective responsibility for development, and even for humanitarian assistance, are not always translated into firm commitments or concrete actions. This gap between intention and action has undermined the credibility of the international community in the eyes of those who must rely on international support. The recent international response to natural catastrophes has been a display of swift practical solidarity in times of crisis, but it has also been too slow and too limited, as has been the global commitment and efforts to scale-up the treatment and care programs for malaria, tuberculosis and HIV/AIDS. We must ensure that collective action based on genuine partnerships and cooperation is mobilized to overcome development challenges and create the necessary conditions for effective and sustainable local action.

By addressing duties and responsibilities at both the national and international levels, this book provides context, background, normative frameworks and policy recommendations that merit the careful consideration of scholars, practitioners, diplomats, and activists. We are grateful to the Nobel Institute for convening the Nobel Symposium on the Right to Development and Human Rights in Development. It fell to Professors Marks and Andreassen to collect in this volume the views and experiences of the worlds leading authorities on the topic, who participated in the Symposium. Their own contributions and those of the outstanding group of authors they brought together, combine the highest level of theoretical reflection with a concern with finding practical ways, based on experience, to make progress on the implementation of the right to development and human rights-based development. My Office is committed to using the ideas and analysis contained in these contributions in its own efforts to identify and advocate strategies that will move the right to development further toward the daily reality of human rights practice.

In the end, the right to development informs our quest for dignity at home, and our vision of globalisation for the world.

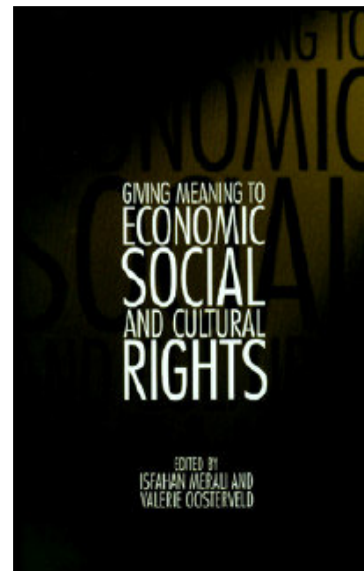
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Giving Meaning to Economic, Social and Cultural Rights

Edited by Isfahan Merali and Valeri Oosterveld

Philadelphia: University of Pennsylvania Press, 2001. \$45.00 hardcover



The struggle for human rights, as exemplified in the adoption of the Declaration of Human Rights in 1948, has undoubtedly been one of the great, progressive achievements of this century. The Declaration brought together diverse nations and peoples, securing an international commitment to ensuring that people everywhere had basic rights, which would be recognized and upheld. The Declaration also created a shared cultural ethos that pressured recalcitrant nations to accept human rights, and it provided an impetus for the extension of human rights to specific fields of human endeavour..

The institutionalisation of a rights approach in social policy and social work is but one example of the way the human rights ethos has been infused into these different fields.

Despite the progress which has been made, this book shows that there is little ground for complacency. It is not only that human rights are widely flouted, or that hypocrisy about the implementation of human rights is widespread, but that the international community has placed far more emphasis on civil and political rights than on social, economic and cultural rights. It is this theme which the editors of this useful book address, and which should be of interest and concern to social policy scholars, administrators and social workers.

The editors point out that the Declaration has a truly universal ambit in that it addressed a wide range of human rights issues ranging, on the one hand, from a familiar concern with civil and political rights (such as the right to vote, the right to free expression and the right to legal representation in criminal cases) to social, cultural and economic rights (such as the right to an adequate standard of living, education, health care and income protection). However, in subsequent attempts to operationalise and implement the rights enshrined in the Charter, political and civil rights were given priority while social, cultural and economic rights were neglected. As one of the contributors to the volume points out, this was partly a function of the Cold War when the United States and its allies campaigned for priority to be given to political and civil rights, while the Soviet Union and its allies sought to emphasize social, cultural and economic rights. Consequently, two separate international legal instruments, known as the Covenants, emerged with the result that the struggle for human rights has been bifurcated into two separate agendas. It also had the unfortunate consequence that social cultural and economic rights remain of secondary importance.

The book's argument is that the separation of rights into two distinct categories needs to be ended and that in a new, integrated approach, civil political, social, economic and cultural rights need to be given equal emphasis. The various contributors, who come from different countries, address different aspects of this argument, and raise a number of related issues. For example, the book contains interesting material on women's rights, children's rights and housing rights with reference to the situation in Palestine where the occupying forces have consistently flouted the right to adequate shelter by the frequent demolition of people's homes. The book also contains an interesting chapter on indigenous land rights in Central America where commercial logging and oil interests have flagrantly ignored local people and their social and cultural rights.

While the book is in some ways a depressing account of the violation of social, economic and cultural rights in many parts of the world, it also shows that the struggle continues. There have been some successes such as the adoption of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women. The book also shows that non-governmental organizations are much more active in the campaign for the extension of economic, social and cultural rights. As governments in many parts of the world have been weakened, mobilization at the community level will be an essential element in the campaign for the extension of these rights. This is an important book, which should be widely consulted by anyone working in the social welfare field today. It provides useful information about the legal and procedural aspects of human rights and brings an important perspective to debates about social welfare, particularly at the international level where the need to adopt and implement economic, social and cultural rights is more urgent than even before.

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The Centre for Development and Human Rights (CDHR) is, a research organisation based in New Delhi and is dedicated to bringing theoretical clarity to the concept of Right to Development by integrating the academic disciplines of law, economics, international co-operation and philosophy.

The Centre is involved in:

- Raising national and international awareness that the Right to Development is a human right.
- Networking with NGOs working on various aspects of development and human rights.
- Examining implications of integrating a human rights perspective into existing development programmes.
- Undertaking research both independently and in collaboration with other institutions.
- Publishing monographs, reports and papers on development, public policy and human rights.
- Organising seminars and workshops on aspects of development, public policy and human rights.

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