

A Toolkit

On

Rights, Justice, and Development: Nepal

2007

This document is a national adaptation¹ of the toolkit on Rethinking
Questions of Rights, Justice and Development for South Asia

By the

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1. A note on the content design

- This programme has been adapted from the toolkit on 'Rethinking Question of Rights, Justice and Development' which was designed for teaching and training throughout South Asia. Keeping in mind the regional diversity relating to language, religion, culture and pattern of economic, social and human development, etc. the programme will be customised according to the Nepalese context.
- The methodology and design presented here have evolved after discussions at a regional level which formed the foundation for the programme but the case studies, reading materials, films etc. have been included or excluded according to the specific requirements.
- The suggested reading list in Section 11 is a broad indicative list, though not exhaustive, core texts for each module. These texts would be collated to prepare a programme reader for the participants. The remaining books and texts are to be used for future reference by the participants on module themes.
- Important web resources in Section 12 are given to cull additional information on related themes of the module and to prepare the assignments for the programme.
- One of the sample case studies in Section 13 is for teaching the impact of globalisation and the resistance strategies for securing socio-economic rights by the communities. Similarly, there would be module and country specific case studies for discussion during the programme to explain various concepts of human rights, development, justice and resistance.
- The model question for discussions in Section 14 is to be used by the resource persons to initiate discussion on case studies or films. The sample model questions for the theme 'globalisation and its impact' are only indicative and accordingly depending on the case study or texts the question will have to be re-framed by the resource persons prior to the commencement of the programme.
- The review or feedback session for recapitulating the programme's format and discussion will be organised by one of the resource persons in a creative participatory way keeping in mind the framework suggested in the Section 15.
- Lastly, the role of resource persons becomes very crucial since the whole programme puts a lot of emphasis on participation and dialogue between the resources, resource persons and participants. Hence, it is suggested that to take the maximum benefit from the course design and module as proposed, the first step should be to organise a one or two day orientation programme for resource persons and organisers.

2. The Context

South Asia is a hugely diverse sub-continent and home to 23% (1.4billion) of the global population. The Asian countries are marked by vastly varying environments in terms of geographical location, territorial size, the available resources, demographic situation, culture, history and political system and their socio-economic structure.

South Asia is unique amongst all the regions in the world, as it entered the 20th century as a 'community' and left as seven countries divided by their historical inheritance which over the last half decade, has fractioned South Asia's sense of community.

With the British Empire having expanded to envelope countries such as Sri Lanka, Nepal and Bhutan, the SAARC countries were led to an integrated market for trade, capital and labour transfer purpose. This in turn led to a movement and shift of labour amongst these countries. This movement has significantly contributed to some of the tensions dominating peace of South Asia within and across its borders.

The integration of South Asia forged a new identity within the region, with social classes changing dramatically, and languages flourished in numbers from English, Urdu, Hindi, Sinhala, Bengali, Tamil, Nepali, Punjabi, and Gujarati to many others. In addition to this, nations shared literary references, philosophical inspirations, social values and religious faiths. However regardless of these shared characteristics, nations still experienced division because of matters such as religion. Given that, some may say that the shared cultural and social ethos of South Asia remains, after 50 years of divisions the bond is still stronger than shared amongst countries in Europe.

With each country being significantly different from each other in this region, the circumstances under which people live in these countries are only partially comparable as are the prospects of sustainable poverty reduction.

These cut across issues such as poverty, terrorism, poor governance structures and gender inequality, to name but a few.

The South Asian continent is deemed the most poverty stricken region in the world, with 40% of the world's poor concentrated here. Approximately 540 million people (45% of regional population) live below the poverty line, lacking basic necessities such as food, water, clothing and shelter. The GNP per capita of South Asia is US\$ 309, one of the lowest figures compared to elsewhere in the world.

The poverty-related problems in South Asia comprise mainly of a lack of health care facilities, low literacy rates, income disparities, concentration of power and decision-making, gender inequality, high inflation rates and unemployment, environment, human trafficking and conflict. People are surviving on less than one dollar a day. More than one half of all adults are illiterate, 350 million people have no access to safe drinking water; 830 million have no access to basic sanitation: over 400 million in the region go hungry on a daily basis and in 1998 it was noted that 40 million primary school aged children were not enrolled in schools throughout South Asia.

Nepal has tried to attain better human development results despite being troubled by the 'people's war' commenced by CPN-Maoist for over a decade. There are many reasons for less remarkable achievements but key amongst them is the political instability in Nepal after the restoration of democracy in 1990. Nepal's experience shows that policy reform and explicit political commitment is necessary to develop a country's human capital base.

The most highlighted improvements have been witnessed in the area of child health. Child mortality rate was 64.2 deaths/per 1,000 live births in 2002. In a report released on September 2006, UNICEF has listed Nepal as one of the pioneer 7 countries that have been successfully launching their programmes to reduce child mortality rate by two third from 1990 to 2015. This report was based on the study carried out by UNICEF in 60 countries with high child mortality rate. About 48,000 women community health workers are working as volunteers in Nepal to achieve this goal.

In comparison to other neighbouring countries, growth rate of Nepalese economy is not so much encouraging. It has managed to grow merely at the rate of 3.6% during the ninth five years plan that ended in 2002. Much of this can be attributed to the Maoist insurgency and their redundant attacks to the industrial and commercial sector. Considering this circumstance, the government has planned two types of growth estimates namely 'general growth' and 'alternative growth' to fit in the normal and abnormal situations for the tenth plan.

The goals listed below have been put on paper by SAARC countries' governments in the year 2004 but they have been drafting policies towards achieving them for a long time. The SAARC Social Charter adopted in January 2004 is geared towards meeting MDGs.

Some of the significant objectives of SAARC Social Charter are:

1. Place people at the centre of development and direct their economies to meet human needs more effectively;
2. Recognise that the achievement of sustained social development requires sound, equitable and broad-based economic policies;
3. Promote participatory governance, human dignity, social justice and solidarity at the national, regional and international levels;
4. Promote the equitable distribution of income and greater access to resources through equity and equality of opportunity for all;
5. Ensure that disadvantaged, marginalized and vulnerable persons and groups are included in social development, and that society acknowledges and responds to the consequences of disability by securing the legal rights of the individual and by making the physical and social environment accessible;
6. Recognize the promotion of health as a regional objective and strive to enhance it by responding to urgent health issues and outbreak of any communicable disease in the region through sharing information with each other, imparting public health and curative skills to professionals in the region; and adopting a coordinated approach to health related issues in international for a;
7. Recognize that empowering people, particularly women, to strengthen their own capacities is an important objective of development and its principal resource. Empowerment requires the full participation of people in the formulation, implementation and evaluation of decisions and sharing the results equitably;

8. Strengthen policies and programmes that improve, broaden and ensure the participation of women in all spheres of political, economic, social and cultural life, as equal partners, and improve their access to all resources needed for the full enjoyment of their fundamental freedoms and other entitlements.

Every nation in South Asia has somewhat acknowledged the problems of people and put them on paper in forms of policies and programmes but in no way guaranteed basic rights and access to resources to people, which could achieve sustainable livelihood and justice for them. There has also been no attempt towards democratising public institutions at ass levels, which would ensure greater political participation of marginal and vulnerable communities in public life.

Our study of select policies in South Asia has shown that governments on one hand has acknowledged the demands of peoples for greater social and political participation, economic equality, and sustainability of livelihood but on the other hand has not established administrative and operational mechanisms, which could put them to practice. This poses new challenges for the civil society and rights activists at large, which demand greater attention towards devising newer approaches and strategies to demand accountability and democratisation of public institutions.

The inadequacies in the political and administrative processes have been supplemented by the neo-liberal economic policies initiated by these governments.

The inability for South Asian countries to effectively address the issues of poverty and resulting social problems, is said to be reflected in the political turmoil that these countries are experiencing. Democracy has been the most conventional mode of governance in South Asia, particularly in India and Sri Lanka, as two countries that have the oldest, continuous democracies in the Third World. In the rest South Asian countries, people are fighting for a stable democratic system for the last half century, but for number of times it is snatched from their hands. In fact, South Asian history reveals that such democracy has not contributed to the region in terms of visible change, and maybe therefore be questionable as a source for welfare and development amongst the people.

Studies show that absence of good governance in the region has led to the victimisation of corruption, violation of human rights, absence of justice, discrimination against minority groups, the under development of civil institutions and imbalanced concentration of political power.

The gap between the 'haves' and the 'haves not' remains a substantial feature of the world, and the concurrence of distinct deprivations in the form of congruent exclusion in an overarching feature of the state of human rights in South Asia.

With the stark figures in levels of poverty throughout Asia, Nepal has experienced high levels of deprivation in terms of the number of vulnerable people throughout the country. There are communities that have been severely affected by the decade long armed conflict and even longer political instability. These become a more critical matter when those affected were already vulnerable and marginalised prior to the conflict.

There are varying dimensions of vulnerability, which interlined from being vulnerable at the household and community level, which is then further exacerbated by belonging to a

specific caste or ethnicity. In Nepal, the most important condition of vulnerability is the lack of social and political participation. The pattern of vulnerability present in Nepal is a result of a mix of both positive and negative socio-economic policies and political process. The vulnerable groups are those who have, for a variety of causes, been excluded from or are unable to participate adequately in the social development and the democratic process that include the majority of the population.

Globalisation has brought forth many criticisms and opinions on the demise of social structures and living, with economic gain overriding what should be regarded as universal human values. There is a constant tension between the 'social' yearning for democratic values and 'economic' competition for unhindered profit, trade and movement of capital. Although globalisation is a contested concept, it is nonetheless a process that affects everyone at many different levels. From the 1980s onwards, the countries of South Asian region have moved to varying degrees, to a strategy of development based on export-orientation, liberalisation and privatisation based on the marketist neo-liberal economic paradigm. The process of globalisation gained impetus in the early 1990s, when all the governments in the region went through fairly comprehensive policies of internal liberalisation, reduction of direct state responsibility for a range of goods and services and privatisation. This commonality of policy experience meant in turn that outcomes were also quite similar, despite the very different initial conditions in the different economies. Some of these outcomes are:

- a) Growing income inequalities in all the economies of the region;
- b) Deceleration in employment generation;
- c) Stagnation or increase in levels of poverty;
- d) Deterioration in quality of employment;
- e) Growing formalisation and marginalisation of labour;
- f) Increased hardship and vulnerability of marginalised communities;
- g) Decrease in expenditure and subsidies on social sector such as food, agriculture, education, health, poverty alleviation, employment generation etc.
- h) Dismantling of handicrafts and cottage industries;
- i) Loss of rights of communities over Common Property Resources (CPR);
- j) Growing integration of village economy with wider economic processes increasing their susceptibility and vulnerability with respect to changes at broader marketing processes etc.

The process of globalisation has also created multiple centres of power and governance. With increased privatisation now, it is no more possible for the people at all levels to hold the State responsible for its failure to provide basic services. The emergence of these new spheres of authority at local, regional, national and global level demands increased co-operation between all actors and at all levels. Since the inequalities and disparities in such a system are quite high, the groups at the lower levels are often ignored from these processes. These groups have to find ways and means to assert their rights in this age of hegemonic capital. In the process of assertion, support of all other classes who are in some way slightly privileged is also essential to deal with "complex sovereignty". Since the ruling argument has often been that some one will have to bear the price of 'Development' in the larger interest of 'Nation'. However, the people have started challenging and asking, why should only the vulnerable and marginal communities always suffer? Why can't the gains of the process be distributed equitably? Why should the reforms carried in the name of generating employment and high economic growth result in further impoverishment and

disempowerment? It is these issues, which are now beginning to gather the centre stage all over the world.

The people's movements and struggles throughout South Asia have contributed to the evolution of a new perspective on issues of development, governance, transparency, and accountability, which include:

- A model of development that will be truly sustainable and not exclusionary.
- People's power is superior to state power and they are agents for social change.
- Women are equal partners at all level of decision- making and development.
- Ensure a participator democratic, transparent, and accountable government.
- Nurture a culture of protest against all forms of injustice.
- Promote constructive work at the village level through efforts of voluntary action and government.
- Bring policy changes, which would ensure equitable development, and ensure a just and sustainable livelihood to millions of poor.
- Emphasise non-violent direct action as a tool of basic change.
- Control of livelihood resources should be in the hands of the local people / communities so that people's basic survival is guaranteed.
- Protect the indigenous people's culture and their way of life, especially that of the indigenous tribes, which is increasingly being threatened by a 'mainstream' model of development.
- Implement pro-poor policies and legislations that have been enacted but never implemented for example, a minimum wage act. Equal work, bonded labour release rehabilitation act or scheduled caste and scheduled tribes atrocities act.
- Develop an ethos of conservation that is based on the syntheses of human rights of forest dwellers and required conservation needs.

These struggles have also thrown new light on the administration and delivery of justice mechanisms, which is closely landed with the governance and various forms of governmental justice — retributive justice, restorative justice, conciliatory justice, minimal justice, affirmative prescriptions, autonomy as justice etc. They have introduced new ways of seeking justice with some success through Public Interest Litigations and explored the relations between rights, capabilities, entitlements and law in terms of governance of justice. Finally, its significance has been sought in the nation of accountability and responsibility — responsibility of the state, its various organs, various governmental institutions, and their national and international commitments—to provide social justice by ensuring social, political and economic rights.

Hence, in a situation of political and administrative failures, and states losing its legitimacy due to non-performance and bureaucratic corruption in changing economic circumstance we need to rethink the concepts of rights, justice and development. It is also necessary to understand the key concepts of the globalisation process, its impact on various communities, nation of sustainable livelihood and socio-economic rights of communities at the margins of development. The globalisation process has affected communities differently and we need to explore them critically.

3. The Programme

It is to address these concerns that a 6 day orientation programme on rethinking question of rights, justice and development is to be held across South Asia. The programme is an outcome of ongoing South Asian project "Regional initiative for the sustainable livelihood and the enabling of social and political participation". The programme in the past one year has studied state policies and practices with regard to globalisation process and sustainability of rights of marginalised communities in collaboration with human rights organisations working with the marginalised groups across South Asia, activists, policy analysts, and individuals working on these themes.

The education Programme will explore relations and bridge three sorts of divides:

- a) Between rights, justice, development and dignity;
- b) Between civil and political rights and the social and economic rights;
- c) And, between human rights and humanitarianism

It aims to reach out to human rights and peace activists/thinkers, development activists, community leaders, social workers, protection workers and women's rights activists, engaged in community protection activities. It will combine the best of the institutionalised education of rights and peace available in the country, and the non-institutionalised training and education that goes on continuously in the making of rights constituencies in the region in various ways, locations, and provide sustenance and service to the work of justice, dignity, protection, and human rights.

The programme would position itself at the interface between human rights and humanitarian work and would encompass the work on policy reviews and mapping the profiles of sustainable livelihood and socio-economic rights of marginalised communities across South Asia. It would be an opportunity to discuss the interpretation of rights prescribed and the antecedents found in international instruments such as ICCPR, ICESCR, SAARC Social Charter and in national constitutions of each country. The analysis of rights, advocacy and development strategies will be added administering justice mechanisms, globalisation and governance to make it more democratic and participatory. The enhanced understanding amongst participants of the globalisation processes, strategies of people's struggles, key concepts of rights, justice, gender, peace, and development would strengthen the struggle for basic human rights for all. It is understood that understanding the roots and implications of these processes is fundamental for individuals if they are to effectively shape their own lives and play a role in democratic processes to influence local and global agendas.

4. Objectives

The programme intends to serve these objectives:

- To train and equip community representatives, human rights and peace activists, gender rights activists, academics, researchers and young professionals working at policy level, with key concepts of human rights and justice. The training would focus specifically on marginalised communities, their land with development processes, and popular development alternatives in order to build good leadership capabilities for grassroots movements and struggles.

- To acquire a comprehensive knowledge of national, social and economic policy regimes in order to empower vulnerable and marginalised communities in their struggle for sustainable livelihood and social and political participation across South Asia.
- To sensitise participants from government or civil society that are engaged in the formulation and implementation of policies about the special needs of the women, various ethnic groups and communities, disabled persons and other marginalised groups in society during the crisis situation such as Tsunami, floods, ethnic conflicts, internal displacement, etc.
- To enhance understanding of the globalisation process, the inherent conflicts in the process, the resistance it provokes, and its impact on women, the various ethnic groups and other marginalised persons. To understand how the state of rights are regarded in the modes of participatory and dialogic process.
- To intervene in the interface between human rights and humanitarian work for protection and promoting the rights based agenda of development making the governance democratic, participatory and plural.
- To assess the role of the government in the implementation of the goals of SAARC social charter and its dissemination.
- To review governments' policies with regards to rights and justice.
- To use the methodology of participatory and decentralised educational processes in a dialogic "to facilitate the process of building bridges between popular struggles and civil society."
- To enable participants to broaden their understanding and tolerance and thoughts of the developments processes and systems, and thereby critically engage with them and think of alternative sustainable approaches, which would enhance the sustainability of livelihood and ensure greater social and political participation of marginal communities across South Asia.

5. Programme Methodology

The aims of this programme are different from those of the formal systems of teaching and learning so the methodology here would employ different means of established teaching and training.

The programme would consist of initiatory lectures, face-to-face discussion with resource persons drawn from a variety of fields and experiences, panel discussions, workshops, case study discussions, policy discussions, films on development issues etc. The programme would use certain principles to develop participatory and critical approaches to learning, teaching and training aimed at developing a sense of critical engagement with the processes and systems, which govern society, its developments and inter personal relations. These principles would also be used to create an interactive and participatory environment owned collectively by the participants of the programme. The significant characteristics of the environment for dialogue would be its horizontal structure, informal nature, and exposure to non-mainstream perspectives, critical engagement with both mainstream and non-mainstream perspectives and a creative environment for learning and training. The dynamics of the learning environment itself and the methodology will be open to critical questioning and will be discussed in the feedback sessions towards end, which would lead to improvement in

design and methodology of the future programmes (See Section 15 for the feedback/review form).

Assumptions

The activities and the ideas expressed above are premised on the following assumptions:

- Assume and recognise the fact that the participants may or may not have similar levels of understanding of the issues, parental background and education but are connected by their desire to participate in the programme.
- Participants are willing to critically engage with the themes to the programme and are sufficiently interested.
- Participants have read the key texts, other reading materials and understood the context of it.
- They also understand the idea of a participatory and interactive space and are willing to critically engage with it and think for development of the methodology and the programme.

They are comfortable with the language and willing to participate in spite of their problems with the language with the help of others.

6. Modules

Globalisation has affected and changed the processes in the world, from economic to social dynamics. The focus here is to critically look at the neo-liberal economic process of globalisation and its impact on the livelihood of marginalised, vulnerable and deprived communities in Nepal. The programme would draw on experiences and case studies from across South Asia and other parts of the world. It is suggested that each of the modules includes case studies and examples according to needs of the particular contexts and countries wherever needed. The element of gender justice, equality, and non-discrimination would be central to the questions, deliberations and debates running through all the modules of the programme. These are the four core modules of the programme;

| | |
|-------------------|---|
| Module : A | Rethinking Foundational concepts of Rights and Justice |
| Module B: | Setting the Agenda of Rights and Justice in the Age of Globalisation |
| Module C: | Policies and Practices Relating to Development and Justice: <ol style="list-style-type: none"> 1. Administration and Delivery of Justice 2. Development Strategies and Alternatives: People's Movements and Struggles |
| Module D: | Conflicts, Peace and Justice: The Case of the IDPs |

All the modules will be preceded by a set of readings (basic texts, web based material, films etc.) provided one month before the beginning of the programme, based on these readings and their understanding participants would be required to prepare a case study of rights violation or protection of marginalised communities in the context of globalisation process. Discussion on the modules will start either with case studies, films, relevant presentations by resource persons or reading of important texts, which would act as 'Stimulators' and throw questions challenging the established notions of key concepts underlying the programme. The presentation would be followed by a set

of questions to ignite discussions among participants (Section14). The learning environment would emphasise on the notions of social and economic justice, solidarity, shared consciousness and criticality. It would be created and owned by the participants who would try and grapple with the strategies, methods, and motions of rights, justice, gender, peace, development, humanitarianism and sustainability.

- A primer on key terminologies associated with the modules
- Presentations by resource persons
- Face to face discussion with human rights activists, researchers' policy analysts etc.
- A programme reader including key texts on each modules
- Selected case studies
- Films on development, human rights issues, alternatives, strategies and important campaigns

Model questions for discussions

See Section 10 for Programme Details and Section 11 and 12 for important texts and web resources.

7. Assignments

- Based on the provided reading material and their understanding, participants would be required to prepare a case study of rights violation or protection of marginalised communities in the context of globalisation process, prepare a rights manifesto, policy document, frame resistance and advocacy strategies or something, which they think would be beneficial for the discussion during the programme.
- Towards the end of the programme participants would be engaged in an exercise aimed at drafting/evolving solutions for the problems affecting their communities to be decided consensually by the participants. The steps would be
 - a) to identify the needs or problems of the community,
 - b) to choose a certain need or problem as a focus of activity,
 - c) to plan a programme for its solution,
 - d) to carry out steps involved in the plan.

Both the exercises would help participants in developing their ability to research (observe, report, pinpoint) – all related to the social and physical geography of the community. It will help them in setting goals or objectives, plot steps towards achieving the objectives and finally evaluate their progress towards that objective.

See Section 15 for a sample fact-finding report as part of the assignment.

8. Participants

The participants in the programme would be students, teachers, activists, government officials, and professionals with civil and political organisations, grassroots movements etc. The effort will be to have at least fifty percent women participants in the programme. Participants should be above 20 years of age and should be proficient in the language of discussion (to be decided in keeping with the regional needs in each country). Interested participants will need to send their curriculum vitae with a 500-1000 words write-up on reasons for applying to the programme and its relevance to her/his word, ideas, or life.

The programme would be non-residential in nature (residential, if resources are available) and participants will have to make their own arrangements for stay and travels to the venue. Selected participants will have to pay a nominal registration fee and organisers will bear the expenses for programme material and other related expenses for all participants during the programme.

On the successful completion of the programme, participants will be awarded a certificate of appreciation by organisers.

Selection Criteria and procedures

- Participants with keen interest in the issue of socio-economic rights and associated with some civil or community organisations.
- Preference to be given to women participants or those from minorities, Scheduled Castes or indigenous communities.
- Participants to secure references from two or three community organisations or individuals working in the region.
- Selection of participants to be made by selection committee comprising members from community organisations, human rights activists and academics working on this issue.

9. Programme Details

- Three sessions of approximately two hours a day
- A review and feedback session of half an hour on the process and the method of the programme every alternate day.
- If the programme is residential then meetings with local community organisations, or visit to a nearby locality could be organised in the evenings. More films and talks on appropriate modules can also be screened and organised in the evenings.

10. Format of Interactive sessions based on Key Texts, Films, and Case Studies

- Opening remark by the moderator on the theme based on the text, film, case study etc.
- All the participants would be expected to have studied the texts before coming for that particular session. (However, one of the participants would be asked to summarise the key points of the text before the discussion starts, for the benefit of those who have not read it.)

- All participants are expected to bring a case study, which highlights their work in the areas of justice, rights and development. These case studies will form part of sessions and will later be incorporated as part of the training manual.
- Model questions to be distributed or raised by moderator to the participants for their reflection and discussion.
- In the interactive workshop session participants are to be divided in groups of 5-6 to discuss the salient questions raised by moderators and by themselves during the group discussion [Approx. 20 mins. If a film is screened or else 30-45 mins]
- Moderator to try and shape the discussion on principles of horizontality, mutual trust, shared consciousness, informality, solidarity and critical engagement
- At the end participants to come out jointly with some definitions of the concepts discussed and or the solutions for the problems discussed during the session and present it to everybody. [Approx. 30minutes]
- See Section 13 for a modes case study and Section 14 for modes questions for discussions.

MODULE A: Rethinking Foundational Concepts of Rights, Justice and Development

Human Rights, Humanitarianism, Justice, Peace, Development, Marginality, Vulnerability, and Gender Equity etc. are the terms often used by the people engaged in human rights and humanitarian work. However, there is a need to understand their detailed meanings and various interpretations due to socio-political and cultural diversity amongst them. For example, the meaning of development for indigenous peoples is different from that of rural or urban people and even there from those of developing or developed countries. This module would explore relations and bridge these three divides:

- a. Between rights, justice, development and dignity;
- b. Between civil and political rights and the social and economic rights;
- c. And, between human rights and humanitarianism

So, in order to understand these processes and bridge the divides this module would focus primarily on building conceptual knowledge of participants mainly on the issues of rights, justice and development and in the process also discuss related concepts of marginality, vulnerability etc. This module would also discuss the meanings and concepts of these terms enshrined in key national and international documents such as ICCPR, ICESCR, SAARC Social Charter, UN Guiding Principles on IDPs, CEDAW principles etc.

Nepal has already ratified 16 international human rights instruments including 6 core conventions. Besides, Nepal has also ratified four Geneva Conventions on human rights. Similarly, 8 international conventions pertaining to the international labour law have also been ratified. SAARC Social Charter has also included major provisions of the international human rights law.

The development of human rights has been one of evolution. A concern for civil and political rights (known as first generation rights), which was the initial spur to the conceptualization of human rights in the eighteenth century, was gradually matched by a demand for economic, social and cultural rights (known as second generation rights). Economic, social and cultural rights progressed more slowly than civil and political

rights. Now, a third generation of rights is increasingly recognized as a legitimate universal aspiration for humankind – rights to peace, development and a clean environment protected from destruction.

Philosophical values of human rights illuminate interrelation between the rights, justice, development and dignity. Philosophical values of human rights are central to the role of social work in pressing for value education. The values also underpin human rights dimension in training for social responsibilities. The philosophical values can be listed as below:

- Life
- Freedom and liberty
- Equality and non-discrimination
- Justice
- Solidarity
- Social responsibility
- Evolution, peace and non-violence
- Relations between humankind and nature.

To illustrate the approach towards understanding the definitional and conceptual variations in the meaning of these terms below we provide an example of the concept of 'Human Rights'.

When referring to the rights of human beings, the fundamental understanding of the notion is the inherent rights to enjoy one's human rights without references to race, colour, sex, religion and language.

While the law does not create human rights, human rights are guaranteed by the human rights law, protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity. The international human rights law is based on the concept and ideal of equality. At the core of the law is the notion of non-discrimination. The human rights law seeks to eliminate all forms of discrimination through its focus on achieving equality.

Existing rights can extend to cover additional rights to persons with certain characteristics or circumstances, such as a disabled person will be 'protected' further by disability rights. Ultimately the goal to ensure inclusiveness and the end of exclusion and all forms of discrimination, is a struggle and by no means does it produce immediate results. Rights can be divided into individual rights that are held by citizens as individuals (or corporations) recognised by the legal system, and collective rights, held by an ensemble of citizens or a subgroup of citizens who have a certain characteristic in common.

The notion of justice implicates the established judicial laws established through a state constitution and legal system. The justice system in any state has the obligation to protect its citizens accordingly and to uphold and respect the rights of each individual. Where there is no regard for human rights, there is essentially no justice.

Rights and justice are closely tied to the concept of development. Development can be seen as the ability and capacity on an individual to sustain themselves, having access to all his/her basic human rights. To have access to all of one's rights is one step forward in achieving self empowerment, self-sufficiency and self-development. At the centre of this is the concept of sustainability, thus where rights and justice systems are followed and respected, development approaches are more equitable and chances of a positive outcome are more likely. Where issues such as corruption, poor governance and unequal distribution of resources exist, human development itself becomes an issue as the failure to address and/or acknowledge the justice system and the rights of people prevails.

Asbjorn Eide in *Good Governance in Ethnically Heterogeneous Societies* (ICES 2001), states thus:

"Governance in the Common Domain. In any nation-wide society encompassing the whole of the permanent population of a country a common domain must exist where everybody is free to interact. It would apply to all, including members of minorities and even persons of indigenous origins, particularly, those who have migrated out or the particular habitat of the indigenous population.

In the common domain, universal human rights require equality and non-discrimination should be the overriding principle. Governance should be colour-and ethnically blind, except for the adoption and implementation of transition measures of affirmative action are called for in order to create equality in fact. Such affirmative action measures must not lead to lasting differentiation.

What should be the scope of the common domain? Broadly speaking, it should cover nearly everything related to the common market, including access to jobs, goods and services, housing, communication, transport, and health services. The market can be sustained only through the existence of a civic culture which in over and above the separate ethnic cultures. The common domain is the space where everyone interacts, also across cultural borders.

Human rights require that everyone within the nation shall have the same rights to political representation, but in ethnically divided societies special requirements apply. While the political system should ensure a common domain, it should ideally not be controlled by a hegemonic, majority group but give incentives to peaceful group accommodation and ensure to each of the groups respect for their identity and their justified interests."

"Good governance in heterogeneous societies requires both multiculturalism and intercultural as a policy accepts the different cultures represented by the different ethnic groups by allowing for the use of and education in different languages and for the manifestations of the different cultures. Intercultural as a policy aims at the facilitation and encouragement of reciprocal respect between the members of the different groups and the establishment or maintenance of the common domain of equality and non-discrimination for all members of society.

For intercultural to function, governance must encourage and support the development of a civic culture which transcends the different ethnic cultures. Governmental authorities as well as the minorities should pursue an inclusive,

transparent and accountable process of consultation in order to maintain a climate of confidence."

The concept of human security has become a foremost facet in discussions of human rights. The concept while often limited to analyzing effects of terrorisms and military challenges has been captured in its broader sense as shown below by thinkers such as Amartya Sen.

The demands of human security include a balanced view of tragedies that are of terrible omissions as well as dreadful commissions. Since security is often considered only in the context of military challenges and violent deeds, it is necessary to emphasize the massive toll of human neglect. An adequate concept of human security in the contemporary world must include at least the following distinct elements:

- 1) *A clear focus on human lives (this would contrast, for example, with the technocratic notion of "national security" – the favoured interpretation of "security" in the military context);*
- 2) *An appreciation of the role of society and of social arrangements in making human lives more secure in a constructive way (important as they are), but also societal concern with food, medical attention, basic education, and other elementary ingredients of human lives.*
- 3) *A fuller understanding of the coverage of human rights, which have to include not just political freedom and personal liberties (important as they are), but also societal concern with food, medical attention, basic education, and other elementary ingredients of human lives.*

'Freedom is not only the ultimate end of development, it is also a crucially effective means. This acknowledgement can be based on empirical analysis of the consequences of – and interconnections between – freedoms of distinct kinds, and on the evidence that freedoms of different types typically help to sustain each other. What a person has the actual capability to achieve is influenced by economic opportunities, political liberties, social facilities, and the enabling conditions of good health, basic education, and the encouragement and cultivation of initiatives. These opportunities are, to a great extent, mutually complementary, and tend to reinforce the reach and use of one another. We do need an integrated understanding of human freedom and security.'

The definition of human rights has some degree of variance between its use in different regions of the world with a difference in both meaning as well as in protocols for and styles of application and is affected by factors, such as ethnicity, nationality, and religious principles. So, it is difficult to find a universally accepted definition of human rights even though member states of United Nations have agreed at some commonality in various international human rights instruments such as ICCPR, ICECSR, and UDHR.

Some of the controversies regarding human rights are:

1. Are human rights political, moral or legal entities (or all three at the same time)?
2. Which rights should be defined as fundamental human rights? Is there or should there be a hierarchy of human rights?
3. Do human rights impede state sovereignty? What if the state itself has ratified international conventions?

4. Should human rights be used as a context for economic or military intervention? (Often leads to a worsening of the human rights situation in the target country)
5. Questions of cultural relativism – e.g. "Political participation is not a part of African culture. Who are you to say that we should have political participation?" These arguments can also be made on religious basis: e.g., "In our religion marriages have always been arranged; why should we not continue this practice?" Some arguments claim that human rights policies are a form of cultural imperialism in, which powerful countries dictate, which rights they consider most important to less powerful countries.
6. Who should hold the moral duty to uphold rights? For civil and political rights, the answer is the state but it is not quite so clear who should be responsible for promoting economic, social and cultural rights (do we have a global duty?).

Similarly, there are controversies and differences in meaning of terms such as justice, peace, development, marginality and vulnerability, sustainable livelihood, gender, justice etc.

Day 1: Module A

| Session | Time | Activity |
|-----------|---------------|--|
| Session 1 | 9:00 – 10:30 | Inaugural session Participants' introduction. Introduction to the programme and lecture on the theme, "Rethinking Question of Rights, Justice and Development" |
| Session 2 | 11:00 – 12:45 | Lecture on the theme 'Challenges for protection' and 'implementing rights based approach to humanitarian work'. (Module A) |
| Session 3 | 1:45 – 3:45 | Panel discussion on 'Interpreting Rights, Justice, and Development in the Sri Lankan Constitution and International Legal Instruments' (Module A) |
| Session 4 | 4:00 – 5:45 | Group discussion on concepts and profiles of 'Development', 'Administration of Rights and Justice', 'Marginality and Vulnerability', 'Sustainable Livelihood' and Issues of Gender drawing from the case studies generated by the participants. (Module A) |

- Case studies submitted by participants prior to the workshop must be selected and distributed to the groups for group discussion.

MODULE B: Setting the Agenda of Rights and Justice in the Age of Globalisation

The question of rights and its sustainability in the era of globalisation is quite complex and is indicative of the constant tension between the 'social' yearning for democratic values, and 'economic' pursuits for unhindered profit, trade, and movement of capital at the peril of social. The neo-liberal model of globalisation vigorously promotes the rights of free trade and capital bringing it in direct conflict with the two essential rights of marginalized communities right to 'food' and 'work'.

The dictum that liberalization improves standards of living is correct to some extent. There is now a vast body of evidence to show that it does not automatically bring benefits to all. Liberalization in some areas can be particularly harmful for the livelihood of the vulnerable groups such as women, children, and indigenous groups. At the same time, liberalization and other trade related rules such as those on intellectual property can increase the market share of already rich and powerful private transnational corporations.

The actors in the process are a) Nation states, b) International Institutions (UN, WTO, World Bank, IMF), c) Multinational Corporations, and d) Global Civil Society. The conflict of interests among them is primarily a rights conflict. Nation states fighting to hold their sovereignty, international institutions for right of global governance, multinational corporations for right of free trade and commerce, and global civil society for the basic human rights.

The developing countries like Nepal also cannot remain aloof from the process of neo-liberal model of globalization. Nepal has already received membership to the WTO. Nepal is also a State party to the covenants such as ICESCR and ICCPR. In this background, we have to set our rights and justice agenda from the human rights perspectives. Neo-liberal globalization is replacing traditional skill, technology and production of the indigenous people. This has added threat to the livelihood of the indigenous people. More than 90 percent people in Nepal depend upon agriculture for their income and livelihood. The great majority of Nepalese are poor because of the inequitable ownership and control to the means of production, capital, technology, land and other productive assets. Likewise, the international institutions like International Monitoring Fund (IMF), World Bank (WB), and Asian Development Bank (ADB) have imposed condition to deduct or eliminate the subsidies provided to the farmers by the government. The government is compelled to accept such conditions. This poses obstacle to the local people's right to health, education, livelihood, food, shelter and clothes. State and the government may ignore the benefits of the local people which ultimately lead to denial of justice. Hence, the model of new-liberal globalization requires the issues of rights and justice to be discussed thoroughly.

The process of globalisation means different things to different people in different contexts and persuasions. It means formation of a global village with freedom and ability of individuals and firms to initiate voluntary economic transactions with residents of other countries; neo-liberal economic globalisation represented by four different flows across boundaries, namely of goods/services, i.e. 'free trade', of people (migration), of capital, and of technology; spread of capitalism from

developed to developing nations; compression of the world and the intensification of consciousness of the world as a whole. Due to its inherent multi-faced nature, its meaning, origin, dynamics and different aspects are shrouded in controversy. Some consider it to be a product of 20th – 21st century where as some argue for a date much before it. There is a strand of thought, which doesn't see any link between growing poverty and globalisation and blame it on inefficient administration, corruption and poor implementation in the system. This module would look at the various controversies surround its meaning, origin, dynamics and its impact on other processes and systems.

The breakdown of social security mechanisms in the third world due to rapid privatisation has led to increased inequality and hardship especially to marginalised communities. It has impacted the rights scenario and justice delivery mechanisms in an unprecedented way and to an extent eroded the authority and responsibility of the state. Post 9/11 the link between multinational corporations, conflict, and struggle for control over resources has assumed a new proportion. This has raised important questions related to control over resources by the people on one hand for now and for the future generations. The role of World Bank, IMF and WTO in third world countries has also been criticised for leading to crises mainly in Latin America and Africa. This module would not go in to the finer aspects of these situations but would take a critical look at the role of globalisation process on the agenda of rights and justice

Apart from the controversies this module would discuss in particular impact of globalisation on common property resources (CPRs), livelihood issues, and sustainability of rights of women, farmers, Dalits, indigenous people and other marginalised communities. Emphasis will be also to find answers to these questions:

- How the economic reforms have impacted different classes in the society, especially marginalised communities?
- How has globalisation contributed towards an increase in inequality in the society?
- How has it penetrated into the rural hinterland and attacked on the CPRs?
- What is the relationship of the process of globalisation with nation states and questions of sovereignty and identity?
- What is the relation between the globalisation process, ethnic conflicts, development patterns, ensuing internal displacement and human rights of marginalised communities all over South Asia?
- What has been the impact of the International Financial Institutions on the development patterns, rights and justice delivery systems and processes?

Day 2: Module B

| Session | Time | Activity |
|-----------|--------------|---|
| Session 1 | 9:00 - 11:00 | Lecture on the theme 'Globalisation and Its |

| | | |
|------------------|--------------|--|
| | | Discontents: Meanings and Challenges' (Module B) |
| Session 2 | 11:30 - 1:30 | Participants' workshop on 'Globalisation and its Impact', in 5 sub-groups. a) Women and children, b) Indigenous People and Dalits, c) Farmers, d) Workers, e) Nation state (Module B) |
| Session 3 | 2:30 - 4:30 | Participants' presentation of their prepared assignments on the theme protection or violation of rights of marginalized communities in the context of globalisation process or resistance and advocacy strategies. Each participant 8-10 mins. Time to be adjusted depending on the number of participants. (Module B) |

Module B:

Probable Case Studies and Films: Relevant case studies and films will be presented for study and discussion.

MODULE C: Policies and Practices - Governmental or Dialogic Mode

From 80s onwards, governments across South Asia have drafted a many new policy measures mainly with two aims:

- 1) To mitigate the effects of globalisation process on the society especially on the pressures from social movements and people struggles;
- 2) To meet the demands posed by neo-liberal economic policies on the economy, environment and resources.

In Nepal, the government introduced various new policies after the restoration of democracy in 1990. These policies had mainly three sole objectives:

1. Poverty alleviation;
2. Promotion of market economy and privatization; and
3. Social sectors and targeted programmes.

Apart from the new policies and programmes launched by the government, civil society has also contributed significantly in the process of poverty alleviation, justice, equality, human rights and governance. Civil society and social organizations have especially focused their activities in civil and political struggles. Likewise, they have also strongly supported the movements of women equality, Kamaiya liberation movement, movement for the rights of dalit and ethnicity, movement for Halia liberation, right of local people in the natural resources etc.

Therefore, the study of the national policies and programmes is an indispensable part of this Module. Administration and delivery of justice will bear prime importance in the study of national policies and programmes. Critical study is also required because the policies and programmes are not people centred in their true sense. Neither have they contributed for upliftment and development of the marginalized communities. In such a condition, people's movement and struggles may be an alternative strategy. Possible alternatives from the people's side can be prepared by the people themselves.

Many national policies of Nepal have been influenced by the policies of the international financial institutions. After Nepal became member of the WTO, we have initiated people's movement for the development of national policies to ensure the benefits of the marginalized communities. Likewise, we have to explore the effects of policies and programmes of the international financial institutions on people's human rights in this module.

Past few decades have been tumultuous for the civil and political struggles across South Asia and seen birth of 'new' social and political movements centred on issues of identity, caste, gender, environment, development paradigm etc. and then networking of these movements at global levels in the forums such as Peoples Global Action, World Social Forum, etc. leading to 'globalisation of resistance'. The networking of these movements has contributed to the evolution of a whole new perspective on the issues of rights, justice, development, governance, transparency, and accountability. The struggles have not been limited to the resistance but have struggled to develop alternative modes of development, reclaiming the commons, and democratise development to make it meaningful for greater common good. The resistance has become fierce from the time neo-liberal economic policies have occupied the centre stage of governance and development. The protests have been stringent especially because of its predatory effects on the poor and marginalised communities, now pushed further along paths of impoverishment and disempowerment. These protests

emanate from the enhanced understanding of the globalisation process among people who are beginning to see the linkages between the government's policies, wider economic processes and the impact on their livelihood.

This module is to critically engage with the government's policies and analyse its effects on the socio-economic rights of the marginalised communities in the context of changing national and global realities and see how far they go in achieving the aims of governance, socio-economic equality, well-being of people and demands and challenges posed by peoples movements and struggles. By critically reviewing these policies and practices we aim to analyse the justice delivery and programme implementation mechanisms of the government and their gendered nature. The policies on the following provisions and themes would be discussed during the programme:

1. Programmes and Policies relating to sustainable livelihood, social and political participation: Access to food, shelter, work, education, health and common property resources.
2. Promotion of the status of women
3. Promotion of the rights and well-being of the child
4. Armed conflict and the vulnerable groups [Module D]
5. Internal Displacement, Resettlement and Rehabilitation [Module D]
6. Globalisation and the vulnerable groups. [Module B]

The policies on the following provisions and themes pertaining to the social and political participation of the marginalized community's would also be discussed during the programme:

- Guarantee of fundamental rights;
- Promotion and empowerment of the rights to participation in the government;
- Equality and non-discrimination before law;
- Self-determination and determination of political status;
- Right to franchise;
- Right of liberty;
- Right to security and movement.

These programmes and policies would be studied in the context of these significant questions:

- Have these policies been able to help the sustainability of rights and administering justice especially to marginalised communities under globalisation?
- If these policies form part of what has been called as "safety net", what kind of safety do these policies provide?
- Where and to what extent do rights feature in this landscape of policies?
- To what extent the concerns of various marginalised groups are reflected in these policies, which could ensure their enhanced social and political participation, in governance structures and civil society?
- To what extent these policy measures bridge the divide between civil and political rights and social and economic rights?

Significant case studies of the alternative development practices and resistance strategies developed by these communities and popular struggles would be used for teaching and training here.

Day 3: Module C

| Session | Time | Activity |
|------------------|--------------|---|
| Session 1 | 9:00 – 11:00 | Theme lecture on ‘Administering Rights, Justice and Development: Governmental Mode or Dialogic Mode’ (Module C) |
| Session 2 | 11:30 - 1:30 | Panel discussion on policies and programmes ensuring right to food, work, and housing (Module C) |
| Session 3 | 2:30 - 4:30 | Participants’ workshop, ‘What do we mean by the Dialogic path to development?’ (Module C) |

Module C: Probable Case Studies

1. Bhote Majhi Musahar Sewa Samiti (BMMSS), Nepal: *A grassroots movement towards local people’s right to natural resource*
2. Sex workers movement in Kolkata and Maharashtra
3. Regional Dalit Network, Nepal
4. Kamaiya Mukti Samaj (Bonded Labour Liberation Society), Nepal
5. Nepal Street Vendors Union (NEST), Nepal
6. Society for Preservation of Shelters and Habitations in Nepal, (SPOSH-Nepal)
7. The Working Women Association (TWWA)-Pakistan
8. Affected Women Forum, Sri Lanka

Day 4: Module C (Contd.)

| Session | Time | Activity |
|------------------|--------------|--|
| Session 1 | 9:00 – 11:00 | Roundtable discussion on government’s programmes and policies on civil and political rights and social and economic Rights with special reference to those of ethnic communities, Dalits, and indigenous communities. (Module C) |
| Session 2 | 11:30 - 1:30 | ‘Seeking Gender Justice’, Lecture on government’s programme and policies leading to promotion of status of women. (Module C) |
| Session 3 | 2:30 - 4:30 | Participants’ presentation of assignments on policy formulation, resistance and advocacy strategies and plan implementation. (Module C) |

Probable Case Studies and Films: Relevant case studies and films will be presented for study and discussion.

MODULE D: Conflicts, Peace and Justice: The Illustrative Case of the IDPs

South Asian region is a zone of conflict, in India there are situation of ethnic conflict in North Eastern region, then social and political conflicts led by of Maoists in the eastern India, inter-religious conflicts in various parts of India, conflicts for autonomy in Kashmir, and then conflict with neighbours. Similarly there are regions of conflict in Nepal due to Maoists violence; in Bangladesh due to religious fundamentalism, and ethnicity; in Pakistan due to ethnicity, and religious fundamentalism; and in Sri Lanka largely due to ethnic conflicts. These conflicts have resulted in far greater social and economic costs and displaced millions of people.

Social and political conflicts on the basis of complex problems such as social inequality, racial discrimination, and non-inclusive state system are prevalent in the Nepalese society for a long time. CPN-Maoists started their insurgency in 1996 raising their voice against the traditional state structure, economic, social and political issues. Dr. Devendra Raj Panday, in his book entitled "Nepal's failed Development: Reflections on the Mission and Maladies", opines about insurgency in Nepal, "The conflict in Nepal is basically a social, economic and cultural issue and is produced and sustained by failed development."

Whatever may be the cause of Maoist insurgency, it has been witnessed as a crime against humanity. It has denied right to life, right to peace, right to justice, right to sustainable livelihood and right to social and political participation of the people. Our study under this module should concentrate on conflict, peace and justice. Many humanitarian hazards have been seen due to the armed conflict in Nepal. The ensuing of so called 'people's war' launched by the Maoists in early 1996 accelerated the outflux of people from their homes driven by fear for life and security. Therefore, we shall take the situation of internally displaced people (IDPs) triggered by the Maoist insurgency for case study under this module.

In the last one-decade the numbers of internally displaced persons (IDP) are on the increase in South Asia just as in many other parts of the world. Discrimination against minorities, violence, war, ethnic hatred, state repression, demands for self-determination, natural and man made disasters such as famines and floods, ill-conceived development projects such as highways and dams – all have contributed massively to internal displacement. In the absence of legal or constitutional mechanisms in any country of South Asia for the IDPs they have organized rehabilitation and care on an ad hoc basis for the IDPs in the same manner as they have dealt with refugees. During conflict situations the rights of an individual come under tremendous pressure and create exigencies for the agencies involved in the work of humanitarian relief. The basic needs of women, children and elderly people become acute in such situations. Even though the relief is necessary the important aspect is restoration of rights and special measures has to be devised for this purpose. However, when we talk of providing rights, justice and relief and rehabilitation to IDPs we have to talk of conflict resolution and establishing peace.

Since the causes of conflicts are many the ways to achieve peace and justice have to be seen in their plurality. From this perspective, peace may not only mean the absence

of violence or war but also the presence of justice, as articulated by Martin Luther King, Jr. In this conception, a society in, which one group oppresses another lacks peace even in the absence of violence, because the oppression itself constitutes evil. The peace and justice also have to be seen in terms of a harmonious balance between human beings, the rest of the natural world, and the cosmos, which extends its limits from a mere "absence of war" or even a "presence of justice" standard. Mahatma Gandhi's model of development as articulated in 'Hind Swaraj' is also in the backdrop of larger goals of establishing peace, mitigating socio-economic and political conflict and securing justice for all. So, the multi pronged strategies have to be devised by the state and civil society in order to mitigate conflict, establish peace, and administer justice.

This module, in particular, would discuss the concepts behind the terms conflict, peace and justice and how they are inter related. Then it would look at the various aspects of conflict and internal displacement across South Asia and finally examine the programmes and policies as enshrined in the national and international provisions for relief, and rehabilitation of IDPs.

Day 5: Module D

| Session | Time | Activity |
|-----------|--------------|--|
| Session 1 | 9:00 – 10:30 | Initiatory lecture on 'Conflicts, Peace and Justice: the case of IDPs' (Module D) |
| Session 2 | 11:00 - 1:00 | Panel discussion on the situation of IDPs due to conflict, and natural and man-made disaster situations. Case studies from, a) Bangladesh, b) India, c) Nepal, d) Pakistan, e) Sri Lanka. (Module D) |
| Session 3 | 2:00 - 3:00 | Presentation on the policy review of national provisions of relief, resettlement and rehabilitation. (Module D) |
| Session 4 | 3:30 - 5:30 | Participant's workshop on the provisions of relief, resettlement and rehabilitation in the light of UN Guiding principles and various national provisions. (Module D) |

Day 6: Concluding Day

| Session | Time | Activity |
|-----------|--------------|--|
| Session 1 | 9:00 – 11:00 | Participants Assignment: Problem solving participatory exercise on a problem decided during the programme / designing of a rights manifesto or policy document |
| Session 2 | 11:30 - 1:30 | Final analysis and feedback |
| Session 3 | 2:30 - 4:00 | Closing address on the theme of "Ensuring sustainable Livelihood and rights of marginalised communities" and certificate distribution |

Sample Texts for the Programme

1. Key international documents such as ICCPR, ICESCR, SAARC Social Charter, UN Guiding Principles on IDPs, CEDAW principles etc.
2. Policy critiques developed in the project "Regional initiative for the sustainable livelihood and the enabling of social and political participation" by all the South Asian partners.
3. Important books, articles and chapters on the theme of globalisation and human rights according to the needs of the specific countries (Section 11 and 12).

Note: The list of the films and case studies given for each of the module is only indicative. Organisers are required to include relevant case studies, films and texts according to the theme rooted in their regions. However, it is also expected that to maintain South Asia regional focus reading materials should also be included from other countries.

11. Reading List for the Programme

**The suggested reading list is a long indicative list, though not exhaustive, for selecting 2-3 core texts for each module. These texts would be collated to prepare a programme reader for the participants. The remaining books and texts are to be used for future reference by the participants on module themes.*

Acharya, Keshab et al, 2003. Poverty in South Asia 2003: Civil Society Perspective. SAAPE Secretariat, Kathmandu.

Bennet, Lynn et al, 2004. Nepal Development Policy Review: Restarting Growth and Poverty Reduction. World Bank Nepal Office, Kathmandu.

Bissio, Roberto, ed., 2004. Social Watch Report 2004. Social Watch, Montevideo.

Consortium of Humanitarian Agencies, 2005. A Toolkit on Rights, Justice and Development: Sri Lanka. Consortium of Humanitarian Agencies, Colombo.

Gautam, Bhaskar et al ed., 2006. Nepalma Garibiko Bahas. Martin Chautari, Kathmandu

Langade, Bhojman, ed., 2004. Nepalma Dalit Manab Adhikarko Abastha-2004 ra Kanuni Byabastha. JUP-Nepal, Kathmandu.

Lawoti, Mahendra, 2005. Towards a Democratic Nepal. Sage Publications, New Delhi.

Ministry of Population & Environment, 2004. Nepal Janasankhya Pratibedan. Ministry of Population & Environment, Kathmandu.

Nepal South Asia Centre, 1999. Nepal Human Development Report 1998. Nepal South Asia Centre, Kathmandu

SAARC, 2004, Social Charter of the South Asian Association for Regional Cooperation, SAARC Summit, Islamabad.

SAARC, 2004. Regional Poverty Profile 2004. SAARC Secretariat, Kathmandu.

SAARC, Submission to the National Budgetary Committee.

Siwakoti, Raj Kumar & Karki, Tulasi Bahadur, 2005. Report on Policy review with critique on sustainable livelihood and social and political participation of the vulnerable groups in Nepal. FOHRID Human Rights and Democratic Forum, Kathmandu.

South Asian for Human Rights, 2001, Including the Excluded - A South Asian Vision, South Asian for Human Rights

UNDP, 2004. Nepal Human Development Report 2004. UNDP, Kathmandu

12. Important Web Resources for the Programme

Poorest Areas Civil Society Programme

The Poorest Areas Civil Society (PACS) Programme stems from the overall aim of the UK's Department For International Development (DFID) to reduce global poverty and promote sustainable development

<http://www.pacsprogramme.org>

Nepal Government's online directory

The official website address of Ministry of Foreign Affairs, Government of Nepal which also provides link for all Nepal government websites at all administrative levels

www.mofa.gov.np

id21

id21 is a research reporting service that aims to put international development policy into practice. By producing summaries of the most recent UK-resourced development research, id21 is increasing the communication of research findings and policy recommendations to policy-makers worldwide. The site provides free access to an online database of over 2000 highlights of recent social, economic, education and health and natural resources research in developing countries

www.id21.org

Nepalese NGOs

A comprehensive online directory of non-governmental organisations active in Nepal; events and news on the social development sector
www.ngofederation.org

National Protection Working Group (NPWG)

NPWG is a concept for intensive and nationwide campaign designed for issue-based intervention in Nepal. At one hand, it is a flexible network of stakeholders that include NGOs and social workers working in the community level. At the other hand, its networking is intensive in nature and aims to intervene after identifying the issues. The activities of the networking is being coordinated by FOHRID Human Rights and Democratic Forum.

www.fohridnetwork.org, www.fohrid.org.np

Community Self Reliance Centre (CSRC)

An organization working in the field of land rights issues that encompasses its own unique organizational culture and articulates internalized core values. It started its activities from one district but by this time it has expanded its wings almost throughout Nepal

www.ngofederation.org

The Communication Initiative

The Communication Initiative is a partnership of development organisations promoting communication interventions for positive international development. The site is a source for publications, events, training opportunities and strategic thinking about communication as an instrument of change

<http://www.comminit.com/>

The International Labour Organisation

The International Labour Organisation is the United Nations specialised agency, which seeks the promotion of social justice and internationally recognized human and labour rights

www.ilo.org

United Nations Development Programme

The United Nations Development Programme is concerned with integrating human rights in all global development activity, such as democratic governance, poverty reduction, crisis prevention and recovery, energy and environment, HIV/AIDS
<http://www.undp.org>

Export Credit Agencies (ECA) Watch

ECA Watch is an outreach mechanism of a larger international campaign to reform Export Credit Agencies (ECAs). Non-governmental organisations working on issues related to the environment, development, human rights and anti-corruption participating in this campaign lobby national and global ECAs to improve their environmental policies and practices

www.eca-watch.org

50 Years Is Enough: U.S. Network for Global Economic Justice

A coalition of over 200 American grassroots, women's, solidarity, faith-based, policy, social- and economic-justice, youth, labour and development organisations dedicated to the profound transformation of the World Bank and the International Monetary Fund (IMF). The Network works with over 185 international partner organisations in more than 65 countries. The Network focuses on action-oriented economic literacy training, public mobilisation, and policy advocacy.

www.50years.org

Asia-Europe Dialogue on Alternative Political Strategies

The objective of this German-based organisation is to encourage a dialogue between the civil society organisations in Asia and Europe that could engender alternative political strategies, which could ultimately lead to alternative models of development. This web site analyses and documents ongoing debates, popular responses, campaigns and struggles related to these themes related to two main themes, globalisation and global security

<http://www.ased.org>

Alternative Information and Development Centre (AIDC)

Through research, information production and dissemination, popular education and campaigns AIDC aims to contribute to the development of regional and global challenges to the currently dominant global economic system. Through the empowerment and mobilisation of progressive organisations and popular social movements, AIDC aims to contribute to the development of alternatives that ensure fundamental socio-economic transformation

www.aidc.org.za

The Bank Information Centre (BIC)

BIC is a US- based NGO that aims to empower affected communities, indigenous peoples, and grassroots movements in developing countries to address the negative side effects of economic globalisation. Supported by private organisations working for the environment and development, BIC supports and informs those working to influence the activities of multilateral development banks in a manner that fosters social justice and ecological sustainability
www.bicusa.org

CEE Bankwatch Network

CEE Bankwatch Network, one of the strongest environmental NGO's in Europe, comprises a network of organisations in 12 countries of the Central and Eastern Europe and CIS region whose mission is to prevent the environmentally and socially harmful impacts of international development finance. Its aim is to monitor the activities of International Financial Institutions (IFIs) in the region, and to propose constructive alternatives to their policies and projects and to promote public participation
www.bankwatch.org

World Agroforestry Centre

The World Agroforestry Centre is an autonomous, not-for-profit research and development institution supported by nearly 60 different governments, private foundations regional development banks and the World Bank whose primary mission is to improve food and nutritional security and enhance environmental resilience in the tropics.

www.worldagroforestry.org

Food and Agriculture Organisation

The Food and Agriculture Organization of the United Nations leads international efforts to defeat hunger. Serving both developed and developing countries, FAO acts as a neutral forum where all nations meet as equals to negotiate agreements and debate policy.

www.fao.org

International Food Policy Research Institute

Aimed at identifying and analysing policies for sustainably meeting the food needs of the developing world, the research at IFPRI focuses on economic growth and poverty alleviation in low-income countries and the sound management of the natural resource base that supports agriculture. IFPRI seeks to make its research results available to all those in a position to use them and to strengthen institutions in developing countries that conduct research relevant to its mandate

www.ifpri.org

Consultative Group on Agricultural Research

CGIAR is a strategic alliance of countries, global and regional organisations and private foundations supporting 15 international agricultural centres. It works with national agricultural research systems and civil society organisations to achieve sustainable food security and reduce poverty in developing countries through scientific research and research-related activities in the fields of agriculture, forestry, fisheries, policy and the environment.

www.cgiar.org

Harvest Plus

Harvest Plus, one of the CGIAR's Global Challenge Programs, seeks to reduce the effects of micronutrient malnutrition by harnessing the power of plant breeding to develop staple food crops that are rich in micronutrients, a process called Biofortification.

www.harvestplus.org

International Rice Research Institute

The International Rice Research Institute, an autonomous, nonprofit agricultural research and training organisation with offices in more than ten nations aims to find sustainable ways to improve the well-being of poor rice farmers and consumers while protecting the environment www.irri.org

Oxfam International

A confederation of 12 organisations, Oxfam International works together with over 3000 partners in more than 100 countries to find lasting solutions to poverty, suffering and injustice. Oxfam seeks increased worldwide public understanding that economic and social justice are crucial to sustainable development and aims to shift in public opinion in order to make equity the same priority as economic growth.

www.oxfam.org/eng

Developments

The publication *Developments* is a free quarterly magazine produced by the UK-based Department for International Development (DFID) to increase awareness of development issues. Its website provides an overview of international development issues and the latest news on how British development assistance works in partnership with developing countries to help eradicate poverty.

www.developments.org.uk/

Friends of the River Narmada

The Friends of the River Narmada is an international coalition of individuals and organisations (primarily of Indian descent), which acts as a support and solidarity network for the **Narmada Bachao Andolan** (Save the Narmada movement), which has been fighting for the democratic rights of the citizens of the Narmada Valley. www.narmada.org

International Water Management Institute

IWMI is a non-profit scientific research organization specialising in water use in agriculture and integrated management of water and land resources. The institute works with partners in the developing world to develop tools and methods to help these countries eradicate poverty and ensure food security through more effective management of their water and land resources

www.iwmi.org

United Nations Development Fund for Women

UNIFEM provides financial and technical assistance to innovative programmes and strategies that promote women's human rights, political participation and economic security.

www.unifem.org

UNAIDS

The Joint United Nations Programme on HIV/AIDS, UNAIDS, is the main advocate for global action on the epidemic. It leads, strengthens and supports an expanded response aimed at preventing transmission of HIV, providing care and support, reducing the vulnerability of individuals and communities to HIV/AIDS, and alleviating the impact of the epidemic www.unaids.org

World Health Organisation

The world's foremost health agency, the World Health Organisation is the United Nations specialised agency for health, established with the objective is to achieve attainment by all peoples of the highest possible level of health

www.who.int

The Centre for Economic and Social Rights

Established in the United States in 1993, the Centre for Economic and Social Rights (CESR) promotes the right of every human being to housing, education, a healthy environment, food, work. CESR works with communities, activists and civil society groups to strengthen local initiatives for economic justice, by connecting them with global institutions and legal agencies to ensure human rights.

www.cesr.org

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realization of human rights in the countries of the Commonwealth <http://www.humanrightsinitiative.org/about/default.htm>

Amnesty International

Amnesty International (AI) is the foremost global human rights organisation, which campaigns for internationally recognised human rights <http://www.amnesty.org>

Human Rights Watch

Human Rights Watch is an independent nongovernmental organisation dedicated to protecting the human rights of people around the world <http://www.hrw.org>

The International Red Cross

The International Committee of the Red Cross is an international or intergovernmental organisation. The website provides a brief overview of the organisation's major activities throughout the world in the fields of protection, assistance and prevention.

<http://www.icrc.org>

Alternative Law Forum

The Alternative Law Forum is a lawyers collective, which uses law to address situations of marginalisation and disempowerment faced by people on the basis of caste, class, religion, gender, sexuality, disability or any other status

www.altlawforum.org

Humanity Foundation

The Humanity Foundation website is a host for cross cultural understanding, possibilities for positive action and a conversation with the world
<http://www.humanity.org>

South Asia Citizens Web

The SACW is an independent space on the internet to promote the exchange of information between and about citizens initiatives from South Asia and its Diaspora communities.

<http://www.sacw.net>

UN-HABITAT

The United Nations Human Settlements Programme, UN-HABITAT is the United Nations agency for human settlements. It is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all www.unhabitat.org

United Nations Environment Programme (UNEP)

Established in 1972, United Nations Environment Programme acts as a catalyst, advocate, educator and facilitator to promote the wise use and sustainable development of the global environment. To accomplish this, UNEP works with a wide range of partners, including United Nations entities, international organisations, governments, non-governmental organisations, the private sector and civil society.

www.unep.org

Endocrine Disrupters Website

A European Commission website that seeks to provide a basic understanding of endocrine disrupting chemicals and that introduces and explores the central issues at hand. A number of reports as well as the Commission's strategy are also presented in detail.

http://europa.eu.int/comm/environment/endocrine/index_en.htm

Environmental Health News

A daily news service that works to increase public understanding of emerging scientific links between environmental exposures and human health. The site provides daily breaking news from newspapers, new science from scientific and medical literature and new reports from organisations working to protect human health from environmental exposures.

<http://www.environmentalhealthnews.org/>

Our Stolen Future

The web home of the authors of *Our Stolen Future*, a book that explores the emerging science of endocrine disruption -- how some synthetic chemicals interfere with the ways that hormones work in humans and wildlife. Access regular updates about the latest scientific research on endocrine disruption, information about ongoing policy debates, and suggestions about what you can do as a consumer and citizen to minimize risks related to hormonally-disruptive contaminants.

<http://www.ourstolenfuture.org/>

World Wildlife Fund for Nature

WWF's efforts to increase scientific understanding of toxic chemicals and to restrict or ban harmful chemicals stem from evidence that some chemicals can undermine the basic functions of entire ecosystems, as well as harm wildlife and human health. WWF has done some of the path-breaking work on endocrine disrupting chemicals.

<http://www.worldwildlife.org/toxics/>

Environment News Service

The Environment News Service provides daily international news updates on the environment.

<http://ens-news.com>

Kalpavriksh

Kalpavriksh is a voluntary group working on environmental education, research, campaigns, and direct action.

<http://www.kalpavriksh.org/>

Ashoka Trust for Research in Ecology and the Environment

ATREE is a not-for-profit organisation,, which utilises an interdisciplinary approach to address issues of environmental degradation and economic development.

<http://www.atree.org/>

Development Alternatives

The Development Alternatives group is a non-profit organisation committed to creating large-scale sustainable livelihoods.

<http://www.devalt.org/>

Global Movement for Children

The Global Movement for Children is the worldwide movement of 10 organisations and thousands of people, including children, uniting their efforts to build a world fit for children.

www.gmfc.org

UNICEF

The world's foremost children's organisation, UNICEF is an arm of the United Nations. Works to improve the conditions of children and ensure their rights in over 158 countries.

www.unicef.org

UNICEF Innocenti Research Centre (IRC)

A part of UNICEF, the Innocenti Research Centre (IRC) works to strengthen the capacity of its parent body and its cooperating institutions to respond to the evolving needs of children and to develop a new global ethic for children. It promotes the effective implementation of the UN Convention on the Rights of the Child, in both developing and industrialised countries.

<http://www.unicef-icdc.org>

Children's Rights India

The website of the Indian chapter of the international Terre des Hommes, an association that believes that children's rights need to be part of the human rights

agenda and strives to raise funds to support action and advocacy on behalf of children who have no means of defending themselves against poverty, oppression, abandonment or discrimination.

www.childrensrightsindia.org

Children First – International Campaign for Children’s Rights

As the name suggests, the members of the international organisation Children First believe the rights of children come before any geographical, national, political, cultural, religious, ethnic or economic considerations, and work towards promoting this agenda <http://www.childrenfirstinternational.org/>

Free the Children

An international network of children helping children at a local, national and international level through leadership and action Free the Children was founded by 12 year-old Craig Kielburger. The primary goal of the organisation is not only to free children from poverty and exploitation, but to also free children and young people from the idea that they are powerless to bring about positive social change and to improve the lives of their peers. <http://www.freethechildren.org>

Save the Children

A global child aid organisation, Save the Children works in 17 states across the United States and over 40 developing to help children and families improve their health, education and economic opportunities. The NGO also mobilises rapid life-support assistance for children and families caught in the tragedies of natural and man-made disasters. The International Save the Children Alliance, an association of 26 independent organisations provides child-oriented emergency response, development assistance and advocacy of children's rights in more than 100 countries.

www.savethechildren.org

Global March against Child Labour

Global March is an international movement that aims to eradicate child labour and create an awareness of the extent of the problem and its impact on children lives. This commitment is reflected in its advocacy of the International Labour Organisation’s Convention Against the Worst Forms of Child Labour. The website contains articles and news about child labour from around the world.

www.globalmarch.org

United Nations Population Fund (UNFPA)

The world's largest international source of funding for population and reproductive health programmes, UNFPA works to promote the idea that reproductive health is recognised as a human right. It works with governments and non-governmental organizations in over 140 countries on programmes that help women, men and young people plan their families, avoid unwanted pregnancies, undergo safe pregnancies and childbirth, avoid sexually transmitted infections (STIs) and combat violence against women.

www.unfpa.org

13. Model Questions for Discussion for Session on Globalisation and its Impacts

1. What do you understand by 'poverty', 'freedom' and 'development'? Do people in different contexts understand these terms in the same way? What do you understand by globalisation? By 'global capitalism'? By 'neo-liberalism'? By 'Free Trade'?
2. How does globalisation affect your life (think about how you consume, how you think about the world, how you relate to others, what you aspire in life)? How does it affect the lives of other marginalized people (in your area, your country, in other countries)? Are these effects positive? Negative? Both? Neither?
3. Do you think the response of the government in dealing with the effects of the globalisation processes by way of designing safety nets are adequate?
4. Do you feel globalisation is going to lead us to the end of national, local or traditional cultures? Would this be a positive or negative thing? What traditions or cultural practices would you like to keep, and, which would you like to see change?
5. Is globalisation inevitable? Is globalisation desirable? Can you imagine what a completely 'globalised' world would be like? What would it take for this globalised world to be just for everyone? Is there anything that you think should not be globalised?
6. Can you imagine a world without countries? Are countries (or 'nation states') necessary for the organisation of society? How were countries formed? What are their functions? What advantages and limitations can you see in this form of organisation?
7. What challenges and possibilities does globalisation bring for social relations? Cultures? The environment? Equality? Peace? Justice? The 'eradication of poverty'? What has been done to address the challenges? What progress has been made?
8. Was there ever a pre-globalised world in the contemporary modernity?

14. Draft Review / Feedback Form for Participants

1. Anything you would like to add about who you are and where you come from (write or draw)
2. Educational Space (Did you feel there was an atmosphere where people could feel at ease about expressing themselves, being challenged and challenging others? Did you feel your input was valued? Was language a barrier?)
3. Methodology (Do you feel the methodology used here is different from traditional system? If yes, then how and why? What changes you think should be made to improve the system?)
4. Perspectives (So far, what have you learned about yourself? What have you learned about rights of others? Has this programme helped you become clearer about your own perspectives and those of other people? Have your perspectives changed in any way?)

5. Programme (How would you describe this programme to a friend? What would you say are the objectives and expected results? Do you think they are possible? Do you have any comments on the materials used?)
6. General comments (Feel free to express yourself in writing or drawing)

Name (optional):

Age:

Gender:

Languages Spoken:

Appendix

- A. Siwakoti, Raj Kumar & Karki, Tulasi Bahadur, 2005. Implementation of SAARC Social Charter: Need of immediate intervention from the human security perspective . FOHRID Human Rights and Democratic Forum, Kathmandu.
- B. Conceptualization of Vulnerable Groups
- C. Conceptualization of Sustainable Livelihood
- D. Concept of Social and Political Participation
- E. Access to livelihood and justice of the victims of conflict including IDPs (A study paper in Nepali language by Advocate Birendra Prasad Thapaliya)
- F. Liberalization, poverty, development policy and alternate (A study paper in Nepali language by Advocate Raj Kumar Siwakoti)
- G. [DRAFT] Implementing the SAARC Social Charter: the challenges ahead.

Implementation of SAARC Social Charter: Need of immediate intervention form the human security perspective

1. Context

Considering the various types of problems being faced by the people in the South Asia, SAARC Social Charter has been approved for the improvement of the lives of the people in this region. Effective implementation of the Charter can ensure the protection the rights of the disadvantaged, marginalized and the vulnerable groups. The provisions of the Charter have tried to address the problems being faced by the poor and the vulnerable groups such as women, children and youth. The governments of this region have reiterated their commitments already made in the international conventions and covenants for the wellbeing of the people in this region. Significant portion of the population in this region are in the vulnerable condition and they are marginalized from the mainstream state system and development process. Despite their repeated commitments in the past, the governments have failed to guarantee the rights of the significant number of needy people. Problem here is that due to lack of awareness of their rights, the needy people are even unable to claim their rights. The SAARC Social Charter has been approved for implementation in this region considering this same situation.

The SAARC Social Charter is the primary document for the governments of South Asia to address the existing problems of sustainable livelihood, social and political participation being faced by the people of this region. The Charter has addressed the principal goal of the SAARC which aims "... to promote the welfare of the people of South Asia, to improve their quality of life, to accelerate economic growth, social progress and cultural development and to provide all individuals the opportunity to live in dignity and to realize their full potential." The document also accommodates human rights, humanity, welfare state, millennium development goals and so on. Therefore, it works as a roadmap for poverty alleviation, human security and governance, protection and promotion of human rights, health, education, human resource development and youth mobilization, promotion of the state of women, promotion of the rights and wellbeing of the child, promotion of stabilization for the South Asian governments. It has given high priority to the safety of the people from the vulnerability, security, peace and full democratic system. In this context, the current situation of its implementation in Nepal will be reviewed here. The review will concentrate to the overall provisions of the SAARC Social Charter from three different perspectives to cover the intention of the Charter. Existing situation in Nepal in respect to human security and governance, poverty and human rights will be discussed in the following paragraphs.

2. Human security and governance

The concept of human security has come up basically as a counterpoint to the concept of "national security". It comes into widespread use internationally in 1994 when the United Nations Development Programme (UNDP) built its Human Development Report.¹ According to the Commission on Human Security; human security means "protecting vital freedoms. It means protecting people from critical and pervasive threats and situations, building on their strengths and aspirations. It means creating [political, social, environmental, economic, military and cultural] systems that give people the building blocks of survival, dignity and livelihood."² In Kofi Annan's view, human security "...in its broadest sense, embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and healthcare and ensuring that each individual has opportunities and choices to fulfill his or her potential.

Every step in this direction is also a step towards reducing poverty, achieving economic growth and preventing conflict. Freedom from want, freedom from fear, and the freedom of future generations to inherit a healthy natural environment-these are the interrelated building blocks of human-and therefore national-security.³ In fact, there is resemblance in the view of Kofi Annan and the spirit of the SAARC Social Charter as described in the Article II, Principles, Goals and Objectives. The Principles, Goals and Objectives of the Charter have given high priority to address the concept of human security. The issues of human security and governance are very significant to attain success to overcome the problem of sustainable livelihood and social and political participation of the marginalized community and the vulnerable groups.

The three most serious obstacles to human security are, "firstly, threats to the security of individuals and their communities, in particular to the most vulnerable sectors of society; secondly, conflicts, threats and different kinds of violence (inter-State conflicts, breakdown of States, human rights violations, terrorism, organized crime etc.); and thirdly, poverty and economic exclusion .⁴ There is no doubt that poverty stands out as one of the biggest obstacles to human security. Poverty is closely linked to other obstacles. These are situations of economic insecurity framed in the context of generalized extreme poverty. Two key elements in the fight toward eradicating poverty are the setting up of markets that operate adequately, and the creation of institutions outside the market. A number of the reports suggest that the essential issues are a fair distribution of wealth and economic growth which will benefit people living in extreme poverty.

In the Nepalese context, obstacles to human security are unfavorable economic conditions, the social impact of economic crises, and natural disasters. Social policies which meet people's basic needs and guarantee minimum economic and social conditions are required if the people affected by the crises are to have real security or some way of escaping from poverty. More than three quarters of the Nepalese population do not have social security protection or do not have a guaranteed job. Another aspect is the different obstacles that are rooted in gender. It is vitally important that everyone should have access to land tenure and / or ownership, access to credit, education and housing, particularly in the case of poor women. The equitable distribution of resources is perceived as crucial for guaranteeing the means of life. Moreover, social protection measures and security networks can contribute to establishing minimum social and economic conditions for the most vulnerable sectors of the population.⁵

The main obstacle to human security in Nepal is poverty, with 38% of the population, or 9 million Nepalese, living below the poverty line. The absence of the rule of law, the ongoing Maoist insurgency and the resultant pattern of gross human rights violations (killings, torture, disappearances, abductions, arbitrary arrests) and persistent discrimination based on caste, class, ethnicity and sex are other factors that pose a threat to human security.⁶

2.1 Governance

Modern Nepal gained landmark achievements after the political transformation of 1990. The democratic constitution formed at that time has mentioned the fundamental rights in accordance with the international standard. *In Nepal*, the promulgation of the democratic Constitution in 1990 restored political freedom and civil rights. Bestowing sovereignty on the people, the Constitution accepts constitutional monarchy and embraces multi-party parliamentary democracy. It has guaranteed basic human rights

to every citizen, including freedom of the press, the right to information and constitutional remedies for violations of these rights. It also guarantees property rights and prohibits all forms of discrimination in the name of religion, caste, race and sex. Though not directly enforceable, social, economic and cultural rights are embodied in the fundamental principles. In addition, Constitutional provisions enable various institutions to function better under democratic system. It proposes a two-tier parliamentary system and grants executive power to the Council of Ministers, accountable to Parliament. The Supreme Court is entrusted with the power to interpret the Constitution and protect the fundamental rights of citizens.⁷

Democratic practice for some years following the political change of 1990 were satisfactory. But, it was unfortunate for the people and the country that this process could not run until it could gain maturity. This is due to lack of experience of the political parties to handle the democratic system and commitment in the part of the political leaders who were in the government for the last one and a half decade. The parties in opposition chose street to parliament for fulfillment of their demands and could not play due role of the opposition to institutionalize multiparty democratic system. Perpetual greed for power, individual ambition, financial interest, internal conflict and split in the parties for which the leaders themselves were responsible made the democratic system fragile. Taking advantage of this unstable and un farsighted activities of the parliamentary parties, Communist Party of Nepal – Maoist (CPN-M) declared 'people's war' in Nepal and they commenced their insurgency after submitting 40 point demands to the then government in 1996. Democracy is going through hard times after the onset of Maoist insurgency. The insurgency began by the Maoists did not take more than 5 years to spread throughout the country to cripple the developmental activities of the government and the daily lives of the people. It was felt nationwide by the year 2001. It created contempt to young democracy of Nepal and terribly affected peoples' rights to sustainable livelihood and social and political participation. King Gyanendra who came to the Nepalese political limelight in a difficult time after the royal palace massacre in 2001, has ignored all norms of democratic system. After being hopeless by the power ambition of the King, Nepalese people are getting united to re-gain their abducted rights to select their governing system and the rulers.

Latest political development has compelled people to question about the existence of the Constitution of the Kingdom of Nepal 1990 and the concept of multi party democracy. Fundamental rights of the people have been suspended. On the one hand, Maoist insurgency was one extreme default situation being faced by the people and on the other hand the King has tried to replace it by another extreme measure. This has posed serious threat to the application of the IHL, right to sustainable livelihood, social and political participation of the people.⁸

Apart from the economic and sanitary dimensions to human security, there are other threats which have to do with people's security in the political and social spheres. These include the weakness of democratic governance and the instability of political systems. These dimensions of vulnerability lead to violence in an LDC like Nepal. The Nepalese government chaired by the King has developed national security plan in the framework of the fight against Maoist insurgency, but this has not contributed to alleviate the political insecurity prevailing in the country. Nepalese people emphasize the need for democratic conditions, good governance and political security as per-requisites for human security. Human security is jeopardized by corruption, discrimination based on race, sex, ethnic origin, religion or political orientation, as well as political insecurity and the absence of democratic possibilities in Nepal.

Corruption and irregularities are widespread at all levels of government, and they exist under the patronage of ruling elites and ministers. Lawlessness and the rulers' arbitrary orders have often shattered the essence of the rule of law and have institutionalized dishonesty in all administrative units of the State. This has posed direct impact in ensuring upliftment of the vulnerable groups and the right to sustainable livelihood, social and political participation of the people.

Nowadays, corruption takes centre stage, lawlessness becomes the norm of governance and the financial resources of the State are channeled to the rulers and their cronies. This has been happening for many years, even during the so-called democratic era of the 1990s. As UNDP puts it, "poverty reduction policies and programmes" have fallen short of their aims and "basic social services" have been "inaccessible to large segments of the poor." "Public investments" have been rendered ineffective in "addressing poor people's needs." Rather, government institutions have often chosen to "exclude" the poor or "silence their voices." If corruption were not the order of the day, as Thapa argues "our country would have been able to provide good education, health care and drinking water from its own wealth of resources..."⁹ Unfortunately, rampant corruption has been embedded in the governance system, crippling the already weak delivery of services which would otherwise give some relief to the needy.

Overcoming the threats to human security is a major challenge facing Nepal today. The reinstatement of democracy brought hopes that changes would occur in the governance system which would address the problems of poverty, discrimination and bad governance. Had that occurred, the problem of human security would have been to some extent resolved. But the Government in the 1990s was not significantly different from the former regime. The term "democracy" was a mere slogan rather than a standard for political decision-making and implementation. The result is that poverty continued to increase, the situation of human rights violations worsened, corruption and dishonesty marred the concept of good governance and, as an effect of all this, a new problem-the Maoist insurgency-emerged. Nepal is now in a dire state, and so is human security. To ensure human security, Nepal needs to embrace inclusive, democratic governance that operates on the basis of the rule of law, with full and unconditional observance of human rights.¹⁰

The governance becomes democratic if it is by the people and for the people. Inclusive democracy is necessary for this. It refers to the voluntary activities by which members of a society share in the selection of rulers and, directly or indirectly, in the formation of public policy. The SAARC Social Charter has addressed the people's right to claim and express dignified livelihood, seek information, discussing and proselytizing, attending meetings, communicating with representatives, formal enrollment in a party, canvassing and registering voters, writing expression, working in campaigns, and competing for public in the perspective of social and political participation. But the King led government in Nepal has denied most of these rights to the people. The question of human security has been shadowed as no election has been held in the country for the last six years.

3. Poverty

According to government estimates, 9 million Nepalese (38% of the population) fell below the poverty line of USD 1 a day in 2001. More alarmingly, the incidence of poverty is increasing "at an annual rate of more than 3%" with the "number of absolute poor almost doubled in the past 20 years (between 1977 and 1996)".¹¹ Poverty is predominantly a rural phenomenon-86% of the population live in villages, and

agriculture is their main livelihood. Of the total poor, "over 90% live in rural areas". The poverty rate varies according to geographical regions and is "highest in the more remote rural areas-the Mid-Western and Far-Western hills".¹²

The caste system maintains its rigidly vertical hierarchical form. By virtue of their caste position those in the lower echelons often find themselves discriminated politically, economically and socially, while historically, small groups of high-caste people maintain a position of dominance. This situation of exclusion has a strong bearing on the causes and perpetuation of poverty. Poverty cuts across all caste groups (most of the poor belong to the dalit, the so-called low-caste) and ethnic communities that are excluded from policy-and decision-making opportunities because of their origins.

It is a bitter reality that some groups in society are compelled to traditional social values. These groups are denied of any new opportunities as they are extremely backward. Their access to resources is limited and so is their participation in decision making process. From this point of view, poverty and HDI are of crucial importance as an effort to mitigate poverty of backward and low caste groups. The major indicators of human development reveals that some castes are high above the average while some others fall far behind. The so called low caste people, in Nepalese social hierarchy who actually are occupational castes, fall back in almost all HDIs. The NLSS shows that their average life expectancy does not exceed 50.3 years and adult literacy rate is mere 23.8 percent. The average schooling is 1.2 years (see table 1). The other backward castes are Rajbanshi and Tharus and their HDI is also at low ebb. This root cause of the castes' backwardness manifests in their lack of access to development programmes which inhibits their own development process. The monitoring over these groups-specific poverty and human development condition, therefore indicate the need for additional reforms.

During the Ninth plan period, important measures were taken to address social exclusion. Kamaiya (bonded agriculture laborers) eradication, establishment of National Academy of Indigenous People, Commission of Dalits (the occupational caste) National Commission for Women, etc. are some of the examples in this respect. The problem lies on the fact that no rehabilitation and income generation programmes are there for freed Kamaiyas. Though there is no data by what measure the improvements are progressing in this front since the HDI based on caste hierarchy is not available during the later years, it is assumed that the progress in caste-wise status should have been going forward as there is overall advancement in these indicators.

Women are other groups who are deprived and left behind interims of access to resources. It is not limited to any particular caste or area but to overall sectors of society. The difference between women and men's per capita income is not available. But the average life expectancy with women as the head of the household is found far below as compared to that of men. Over that the households of women-headed are mostly under extreme poverty where the source of income is not definite.

The data related to human development shows larger gap existing between men and women. Though the literacy rate of 54.3 percent for men and 21.3 for women according to the NLSS of 1996 has changed to 65.8 percent and 35.4 percent, respectively in 2000, still wide gap exists between the two. Likewise, another important indicator of average schooling year also differs considerably between men and women. In 1996 the average schooling year for men was 2.25 while for women it was only 1.13 years.

Though the figure has gone up in 2000, there is no improvement towards bridging the gap¹³

According to the UNDP's Human Development Report of 2004, Nepal has recently been declared as a medium human development country. Among 177 countries, Nepal ranked 140 with a Human Development Index (HDI) value of 0.50 in 2002. This is, however, still lower than the South Asian Average of 0.58. In terms of Gender Development Index, Nepal's position has improved over the years and at the latest it ranked 116 among 144 Countries in the world with a value of 0.484 in 2002. In terms of UNDP's Human Poverty index, it ranked 69 among 95 Countries in the world with a value of 41.2% in 2002, which implies that about 40% of Nepalese are deprived of basic human aspects.¹⁴

3.1 Policy to alleviate poverty:

After the restoration of democracy in 1990, a number of policy initiatives have been implemented in relation to poverty reduction. Policies have been designed primarily to achieve broad based growth and to expand access to social services. Policies that target the 'hard core' poor have also been devised. The recently completed 9th Development Plan laid down a series of development and poverty-reduction goals, supplemented by 5-year benchmarks, to be fulfilled by 2017. In relation to poverty reduction, the aim is to reduce the head-count index which stood at 42% in 1995/6 to 32%, 23%, 15% and 10% by 2002, 2007, 2012 and 2017 respectively. This, among other, is based on a GDP growth rate ranging between 6 percent and 8.3 percent. Additional goals and benchmarks relate to life expectancy, fertility, and access to education, health services, and drinking water and significant and progressive gains are projected on all of these benchmarks. The authors argue that the targets on poverty alleviation are somewhat ambitious (cf the targets under MDGs above) and how far it addresses the living standard of the vulnerable communities is not certain.

Both the 9th and 10th Plans predicate these projected gains on a "twin strategy"; the liberalization of the 'modern sector'—which will accelerate economic growth and the increased public investment on physical and social infrastructure. The policies and strategies of the 10th Plan were initially crystallized in the form of an Interim Poverty Reduction Strategy Paper (I-PRSP) and later developed in the form of an Approach Paper of the 10th Plan. The plan seeks to prioritize the promotion of agriculture for poverty alleviation. This in turn relies on the preparation and implementation of programmes on increasing market access to farm products through expansion of road network and through privatization of fertilizer, seed distribution and agricultural extension services. These strategies are also expected to increase employment and wage/income opportunities for the poor.

It seems that neither Nepal succeeded in achieving expected rates of economic growth nor did the implemented programmes make any significant impact on the living conditions of the vulnerable groups. Official reviews of each plan have pointed out similar reasons for their ineffectiveness. Major casual factors include the lack of long-term vision and continuity in strategies, lack of good governance, weak institutional capabilities, improper distribution of resources and the inability to commercialize the agricultural sector. Even today, none of these serious issues seem to have been mitigated.

Nepal's PRSP is based on 4 strategies: broad based economic growth, social sector development, targeted programmes and good governance. Each strategy is aimed at addressing one of the poverty dimensions—income, human poverty and social exclusion. Global experience has shown that there must be close coordination between the action of the government and market and private sectors if growth is to be equitable. Redistribution of the benefits of high growth among poor people does not occur automatically, and must be proactively initiated by the government. It takes good planning, a long-term vision, consistency and commitment in order to ensure equal access to facilities and opportunities created by the market mechanism. A large number of well designed programmes specifically targeted at poorest communities and marginalized sections of the population must also be implemented.

The goals and targets set by the 10th Plan seem to be ambitious. Their achievement is dependent on private investment, which is unlikely to be forthcoming given the present socio-economic and political climate. The current security situation means that the government presence is limited to the capital and district headquarters. Unless the insecurity settles down and a stable government with a strong commitment comes to power there is little chance that the livelihood of the vulnerable communities will improve. Despite the State's efforts at poverty alleviation through its various policies and programmes, access of the vulnerable groups to the adequate standard of living is yet to be achieved.

4. Human rights:

The Constitution of the Kingdom of Nepal 1990 guarantees fundamental human rights to the Nepalese citizens. The National Human Rights Commission (constituted as per the Human Rights Commission Act 1995) retains powers to oversee human rights violations in the country. The National Women's Commission, constituted in the year 2002, looks into the rights and welfare of women; similarly the National Dalit Commission was formed in the same year to deal with Dalit issues. Nepal is a signatory to all the major international human rights instruments. It has also ratified key ILO Conventions governing freedom from discrimination, freedom of association, equal pay for equal work and criteria for entry into employment. But all is not well when it comes to the record of performance. The steps taken to uphold human rights fall short of the expectations and State obligations. There still prevail a number of laws or legal clauses that contradict with human rights principles and constitutional directives.¹⁵

The inadequacy of the legal framework in Nepal contributes to an environment of impunity. Crucially, Nepal's Constitution of 1990 does not explicitly guarantee the right to life (Article 12 (1) states that "no law shall be made which provides for capital punishment", but does not positively include the right to life). Moreover, the provisions of the Terrorist and Disruptive Activities (control and punishment) Ordinance (TADO), re-promulgated by royal decree in October 2004, fall well below international standards. Terrorist and Destructive Activities (Control and Punishment) Act 2001 (TADA) was promulgated on 26 November 2001 as an ordinance, 3 days after the declaration of State of Emergency for the first time which was later passed by the Parliament. This Act authorized the security personnel to hold an individual into custody without judicial remand for the period of 90 days. The latest amendment in TADA done through the Royal Ordinance with the consent of the Deuba government is equally problematic. Article 9 of the TADA has now been amended in such a way that any person suspected with terrorist and destructive activities could be held under preventive detention up to

one year without trial whereas the earlier provision was limited to three months. Under this fascist provision, the security officials now can arrest and detain anyone up to six months on their own, and the next six months with the permission of the Home Ministry. The sad reality is that there are almost no cases in the past where the Home Ministry has denied of such an extension under the Public Security Act providing for similar provision for preventive detention. The provision of detention in police custody for up to two months in the case of those involved in the terrorist and destructive activities is still intact to be used for the purpose of investigation. Today's reality is that most of these detainees are held under incommunicado detention in unknown places, mainly in army camps, and are also disappeared involuntarily in thousands-making Nepal the top in the crimes of "disappearances" and other human rights violations in the whole world. Similarly, the violations of the IHRL, the IHL and the Constitution are taking place not only through legislation and the draconian Royal Ordinances but also through various internal orders and regulations issued by the security agencies-both the police and the army.

4.1 Human rights violations

Opposition to the State has traditionally been met with violence, and this continues unabated to date. In recent years, particularly after the People's War started in 1996, killing has become an everyday phenomenon. At present, three lives per day are lost in the country. Since the commencement of the insurgency aimed at the de facto abolition of the monarchy and establishment of the People's Republic, Nepal has been gripped by a nationwide conflict and human rights crisis in which the human casualty has crossed 14,000.

Unlawful killing has been common in Nepal along with the attacks of the Maoists and the counter attacks by the State. Maoist insurgents are responsible for the unlawful killings of 1077 people. The State has been found responsible for the unlawful killings of 1604 people. This is the data of the year 2004 alone. Altogether 2589 people were tortured by the State during the same year.¹⁶ Torture is a longstanding phenomenon. Methods of torture include rape, falanga (beating on the soles of the feet), electric shock, belana (rolling a weighted stick along the prisoner's thighs causing muscular damage), beating with iron rods covered in plastic, and mock executions.¹⁷ Cases of disappearances and abductions add to the gruesome record of human rights violations. The State was responsible for 250 disappearances from the start of the People's War up to October 2003. In addition, "hundreds of alleged extrajudicial executions, thousands of arbitrary arrests and numerous instances of torture have taken place in the context of the People's War".¹⁸ The Maoists have been responsible for over 250 abduction of members of political parties, civilians perceived not to be their supporters, journalists and anyone else who is critical of them. Amnesty International (AI) Nepal has recorded dramatic rise in the incidents of disappearance since the end of latest cease-fire in August 2003. Security forces have arrested hundreds of people and held in undisclosed detention camps. AI received reports of over 400 people disappeared from August 2003-June 2004, while the NHRC recorded over 700 disappearances in the year following the end of cease-fire.¹⁹ Reports have shown that there are increasing number of disappearance and extrajudicial killings after the royal takeover in February 2005.

5. Gender Violence

The intensity of gender violence is equally shocking. Women, who bear the brunt of farming and household work, have very little access to real property, savings or credit. Their participation in political decision-making and administration is shame-fully low. They occupied only 6.5% of seats in parliament in 2000 and their participation in government administration is barely one tenth than that of men.

Traffic in women and girls for commercial sexual exploitation is all too common. Each year up to 7,000 girls and children are trafficked from Nepal and forced into sex work in different parts of the world. In India alone there are at least 200,000 Nepalese women serving as sex workers. Deep-rooted superstitious beliefs and attitudes also afflict many women. Women accused of practicing so called witchcraft become the victims of physical and mental torture and are compelled to live a life of humiliation and neglect. In the cruelest crime of its kind in the history of crime in Nepal, two elderly women accused of practicing witchcraft were beaten to death in 2003. Over a dozen cases of witchcraft-related crimes are recorded every year.

The ongoing Maoist insurgency adds another dimension to the violence against women, who are direct and indirect victims of the war. Many are displaced from their homes and communities, and the killing of male members of the family increased their burden of family responsibilities. In the absence of the male members of the family, women have to bear the total household responsibility from looking after the farming to taking care of the children.

6. Maoist insurgency

Only six years after the restoration of democracy in 1990, a faction of the (Maoist) Communist Party of Nepal declared armed insurgency against the present socio-economic structure and the Government with the aim of establishing a new state styled after the one established by Mao Zedong in China in 1945. The insurgency and the counter-insurgency measures adopted by the State to fight the Maoists have resulted in a protracted threat to human security.

Besides humanitarian loss, much infrastructure has been destroyed. From the commencement of the insurgency till November 2003, as many as 177 private houses, 33 health centres, 12 telecommunications towers, 31 school buildings, 54 police posts, 18 post offices, 93 government offices, 29 private offices and 31 electricity-related centres were destroyed.²⁰ In the year 2004, 70 private houses, 2 health posts, 2 telecommunication towers, 10 school buildings, 27 police posts, 73 government offices, 5 private offices and 3 electricity-related centres were destroyed.²¹ The fear of being caught in the crossfire between Maoist guerrillas and State security forces has forced rural people to abandon their villages and belongings. In 2002 alone, 17,564 people throughout the country were displaced. This pattern of displacement is escalating due to no improvement in the security situation. The Geneva based Global IDP Project estimates the total number of the displaced to be somewhere between 100,000 and 200,000. According to INSEC report 9787 people were displaced from their home in the year 2004.

The impact of insurgency on education has been equally damaging. Around 3,000 teachers have stopped teaching in outlying districts, which has affected as many as 100,000 students. Around 700 schools across the country have been closed. The Maoists, through the All Nepal National Independent Free Students Union-

Revolutionary, have disrupted education throughout the country through a series of bandhs (shut-downs) and protests. The young students feel insecure as the insurgents force to participate them in their campaign against the State. There are wide opposition about setting camps by the government security forces also in the school and college premises in several remote areas of the country. The fear of insurgency has also deterred health workers from working outside urban areas. Caught in the crossfire between Maoists guerrillas and State security forces, Nepalese people are living a fearful, uncertain and insecure life.

7. Gap and weakness vis a vis Charter implementation

Through SAARC Social Charter, SAARC has provided an excellent opportunity for the formation of policies and programmes to the governments of this region. It can certainly contribute in the wellbeing of the people below the line of poverty, facing social exclusion, marginalized communities and vulnerable groups. The implementation of the Charter has provided enough opportunity for the enabling, promotion and protection of the right to sustainable livelihood, social and political participation of the marginalized groups and the poor. The government of Nepal has adopted certain policies and practices regarding the issues reviewed above, i.e., human security and governance, poverty and human rights, but there is still a long way to go towards achieving the objectives of the SAARC Social Charter from the social security perspectives.

Nepal government has not given adequate importance to the implementation of the SAARC Social Charter nor any clear policy has been made in this regard. No specific programme has been prepared for the transformation of the living standard of the vulnerable groups. Although the government has prepared policy on human security and governance, poverty alleviation and protection and promotion of human rights, it has not adequately addressed the needs of the vulnerable groups.²² The government is required to immediately address the gaps and weaknesses seen in the way of implementation of the Charter.

8. Recommendation for the implementation of the SAARC Social Charter

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1. The State parties must immediately establish a National Coordination Committee or any appropriate national mechanism to oversee the implementation of the Charter.
 2. The State parties need to prepare National Plan of Action for the implementation of the Charter.
 3. The State parties should give due consideration to the provisions of the SAARC Social Charter in the process of their respective national policy formation.
 4. The State parties should establish effective network collectively to take initiatives against the problems in the areas of poverty, health, education, human resource development and youth mobilization, promotion of the state of women, promotion of the rights and wellbeing of the child, population stabilization and drug de-addiction, rehabilitation and reintegration etc. This will enable the enhancement and right to sustainable livelihood, social and political participation of the vulnerable groups. Establishment of this network will ensure easy exchange of information, experiences and resources.
 5. The SAARC Secretariat should facilitate the translation and dissemination of the SAARC Social Charter in the national/local languages of the region. The Secretariat should regularly monitor the implementation status of the Charter.
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6. The civil society in the region should raise effective voice for the implementation of the Charter. An effective network of the civil society should be established to create pressure at the national and regional level for the implementation of the Charter. The network can also work for the lobbying to this purpose and to create pressure on the SAARC Secretariat to work for the interest of the region.

Conclusion

SAARC Social Charter has been prepared as an effective tool to address the problems facing this region with guidelines to resolve them. It has emphasized the benefits of the people of this region. The State parties should take them for implementation at the highest level. Fulfillment of the obligations of the Charter by the States of this region can, of course, contribute to the overall development of the people in the region. Implementation of the Charter is also imperative for overcoming the increasing humanitarian crisis and to promote the issue of human security in this region.

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Table 1
Human Development Indicators by caste and ethnicity 1996

| | Average life expectancy (yrs) | Adult Literacy rate (percent) | Average years of schooling | Per capita relative income (Rs) | HDI |
|----------------------------------|-------------------------------|-------------------------------|----------------------------|---------------------------------|-------|
| Nepal | 55 | 36.7 | 2.3 | 7673 | 0.325 |
| Gurung, Magar, Sherpa, Rai Limbu | 53 | 35.2 | 2 | 6607 | 0.299 |
| Rajbanshi, Yadav, Tharu, Ahir | 58.4 | 27.5 | 1.7 | 6911 | 0.313 |
| Occupational Caste Group | 50.3 | 23.8 | 1.2 | 4940 | 0.239 |

Conceptualisation of Vulnerable Groups

1.0. Conceptualisation of Vulnerable Groups

There is no universal or common definition of vulnerability, but, in relation to humanity, the concept of vulnerable groups denotes the risk of living condition and marginalization from the society and social exclusion. Such a concept would include people who have long-term risk in their livelihood, social and political participation. It should include people who are deprived of enjoying human rights.

Vulnerability might be viewed connecting with the national policy and economic growth rate of nation. Especially in the third world countries, conditions posed by the foreign aid and the development process also impacts upon the vulnerability. Lack of accountable democratic political culture and utilitarian culture can also increase the chances of vulnerability. Various groups of the community fall under vulnerability due to their individual or social characteristics.

However, vulnerable groups are typically categorised in social terms according to age, sex, ethnicity, disability or family status. This obviously reflects the complex interplay of individual and societal factors, such as discrimination and access to education, which affect employment prospects. Rapid social and economic changes affect the employment prospects of different groups and also influence the characteristics of those who are vulnerable. (Access to employment for vulnerable groups. Foundation Paper: 6-7)

The EU's Employment-Integra Program was designed to find ways of integrating the 'most vulnerable' into employment: eligible groups included people who were long-term unemployed, lone parents, homeless people, migrants, refugees, ethnic minorities, itinerants and travellers, offenders and ex-offenders and recovering substance abusers-representing more than half the unemployed people in Europe. It can be seen, therefore, that the population of vulnerable groups is made up of a range of overlapping social categories. (European Foundation for the Improvement of Living and Working Condition: Access to Employment for Vulnerable Groups. pg 6-7, Dublin-18, 2002).

This differs from society to society and may also require certain political courage - vulnerable groups are often minorities who are generally unpopular, such as people of Nepali origin in Bhutan, Harijans in India, Chinese in Indonesia and prisoners almost anywhere. NHRIs have taken up the concerns of each of these groups. This is most effectively done if the institution makes a conscious effort to identify groups with which it is attempting to work.

The Spanish Defensor del Pueblo uses his power of suo motu investigation extensively to favour some of the most vulnerable groups in society, often including those who would probably not even know of the existence of the Defensor del pueblo, let alone how to contact him. Such cases have included: detention, ill-treatment and illegal expulsion of foreign nationals, including asylum seekers; child labour; child sexual abuse; traffic in women; harassment of gypsies; and violation of the rights of HIV/AIDS sufferers.

Women occupy a position that is analogous to "vulnerable groups" in one important respect-that their specific human rights problems and needs are often ignored-but not in others. Most importantly, it needs to be recognised, and often is not, that women constitute a sub-category (and usually a majority) of most vulnerable

groups. For example, and most universally, women are poorer than men within the same social class, a disadvantage that in turn renders them vulnerable to a series of other types of human rights abuse. (Source: International Council on Human Rights Policy. Performance & legitimacy: national human rights institutions pg 87-89, International Council on Human Rights Policy. Versoix, 2000).

Human rights law has long recognised that certain groups need special protection. Such groups include landless peasants, marginalised peasants, rural workers, rural unemployed, urban unemployed, urban poor, migrant workers, indigenous peoples, children, elderly people, women and the disabled. They are vulnerable to human rights abuses because of their physical attributes (e.g. the disabled) or because they have suffered discrimination for a long time (e.g. women) and do not have equal power in society preventing them from protecting their rights.

There are two obligations in relation to vulnerable groups. First, businesses should make sure that their activities do not hurt (even unintentionally) these vulnerable groups. Second, human rights law allows, and sometimes requires, temporary positive discrimination in favour of these groups, in order to right a historical wrong that may otherwise never be rectified by time. As an example of human right guaranteed for vulnerable groups, we will look at protections for indigenous peoples.

Many indigenous groups and ethnic communities are particularly vulnerable to human rights violations. They frequently suffer discrimination, and their rights to life, to health, to land and to culture have been violated over time and on a large scale in many societies.

In recent years, new issues have been added to the list of potential human rights hazards which indigenous peoples face when they come into contact with private companies. Harvesting of indigenous genetic resources with the intention of utilising such resources for commercial, scientific and military purposes is one such new issue. Many indigenous groups have expressed their strong disapproval of such projects. They say that very often their consent was not obtained, raising the question of whether rights to privacy have been violated. They argue that the proceeds from development of genetic resources or from commercial exploitation of their traditional knowledge have rarely been shared with them. This is despite the fact that the convention on Biological Diversity in Article 8 (j) provides that member states "..... encourage the equitable sharing of the benefits arising from the utilisation of (indigenous) knowledge, innovations and practices." At present no system ensures "equitable sharing" of the income generated by commercial exploitation of knowledge held by indigenous groups. (Source: Beyond Voluntarism, Human rights and the developing international legal obligations of companies. pg. 38-40). Absence of equitable sharing and proper distribution also increase vulnerability in a society. This also needs to be considered while defining vulnerability and vulnerable group.

1.1. Definition of "Vulnerable Group":

Vulnerable group is a community deprived of food, shelter, clothing, health, employment, education; have no access to political, social, economic activities; are away from the development activities; are discriminated in terms of religion, race, caste, region etc. From a human security perspective, a community that does not enjoy freedom from 'fear' and 'want' is vulnerable group. Normally, freedom from want is important in a developing country like Nepal; but the ongoing Maoist insurgency

compels to consider freedom from fear also while defining vulnerability. The sectors like women, ethnic peoples, indigenous communities, dalit, Kamaiyas, landless, elderly, children, refugee, industrial workers etc. are vulnerable groups in the present context of Nepal. (FOHRID. Framework for Study on "Policy review with critique on sustainable livelihood and social and political participation of the vulnerable groups in South Asia. Kathmandu. 2004).

Likewise, United Nations Commission on Human Rights (UNCHR) considers children, minorities, migrant workers, internally displaced persons, indigenous peoples and persons with disabilities as vulnerable groups. The 60th session of the UNCHR held in April 2004 had also reviewed the situation of the vulnerable groups taking into account the problems being faced by them.

1.2. Vulnerable groups in the context of Nepal

Looking at the complex composition of Nepalese society and exploring the above discussions, it is very difficult to give judgement about vulnerable groups in Nepal. However, the vulnerable groups can be viewed from two dimensions:

1.2.1. Population below poverty line:

The World Bank has mentioned in its "Nepal: Poverty at the turn of Twenty First Century" (1999) that the population below poverty line is 42 percent. The NPC/UNDP-Nepal Human Development Report published in 2001 has found the proportion to be 38. Whatever the number be, the population below poverty line have no access to sustainable livelihood. Their social and political participation is also very insignificant. We cannot ignore the situation of the population below poverty line, that accommodates all castes, regional and religious communities while discussing about vulnerability.

1.2.2. The class having group identity and existence:

Diverse ethnic community and groups in Nepal have their individual identity. Diversity prevalent in the social structure is the identity of the society. The components of the society adopt diversity of their own. This gives rise and existence of groups with their own identity. The status of various groups differs in the society. The deprived and marginalized groups cannot come to the mainstream till an intervention is made. The marginalized groups are in the vulnerable condition. The vulnerable groups can be discussed as follows:

A. Women: The women who do not have or have significant access to family property and other resources can be termed as vulnerable. Most of the 85 percent of women, whose livelihood depends upon agriculture, do not have ownership to land. Only 10.84 percent women are fortunate to own land (Population Census 2001, CBS, HMG Nepal, 2002). Besides, those women who are conflict affected, single women or widow, HIV/AIDS infected, migrant worker, internally displaced, refugee, trafficked women are also in vulnerable condition. A scientific study is yet to be made to find out their actual number and nature of their grievances.

B. Indigenous people and ethnic groups (Nationalities):

National Census 2001 has enumerated the population of indigenous and ethnic communities (nationalities) to be 82,71,975, that covers 36.3 percent of the total population of Nepal. They have been categorized into 59 different groups by the same Census. Such a big portion of population has been neglected by the centralized ruling system. They are always marginalized from the mainstream social, cultural, economic and political development process of the State. Traditional feudal mentality of the rulers

and the policies made by them have never been in their favour. Most of them are landless and they are deprived of their traditional ownership to other natural resources. This has pushed them further into the circumference of vulnerability.

C. Dalit:

The total population of dalits is 9.5 million out of which 87 percent are landless. This community has been marginalized for a long time. This community has been compelled to face inhuman treatments such as discrimination, ill treatment, untouchability from the time immemorial. They have very insignificant access to State mechanism, politics, education, health etc. Under these circumstances, this community can be termed as vulnerable community. Though they are rich in skills and technology, they have been losing hold to their traditional asset due to modern trend of globalisation and liberal market policy. Besides, dalit groups are excluded from social practice and thereby from access to contacts and opportunities that are available to the ruling classes. From the time in history, these groups are internally excluded from the mainstream of society and almost live below the poverty line.

D. Kamaiya:

Kamaiya or bonded labourers reside especially in Dang, Banke, Bardiya, Kailali and Kanchanpur district of western Terai. The survey carried out by the Ministry of Land Reform and Management showed the population of the Kamaiyas to be 101,522. Especially, the indigenous Tharus of those areas are Kamaiyas. Through a declaration made in 2000, the Government has freed all the Kamaiyas, but the rehabilitation of the freed Kamaiyas could not become successful. They are deprived of the requirements for social security such as education, health, food, shelter, employment. Kamaiyas are exploited from the very local level. To be precise, they have not received any facility from the State. The community is in a very vulnerable condition.

E. Children:

Children in Nepal are also in a state of vulnerability. The children below 16 years of age comprise 41 percent of the total population. Following table can throw light on the vulnerability of the children in Nepal:

Table 1: Vulnerability of Nepalese children

| S. no. | Category of Children | Ratio |
|--------|--------------------------------|-------|
| 1 | Living in the urban areas | 14 |
| 2 | Living in the rural areas | 86 |
| 3 | Very poor | 40 |
| 4 | Injected | 90 |
| 5 | Facing malnutrition | 46 |
| 6 | Admitting to Primary Education | 80 |
| 7 | Completing Primary Education | 51 |

Source: Child Rights Situation in Nepal 2004 (CWIN)

Above table identifies the portion of children out of 100 facing various types of vulnerability. Following table shows the nature of vulnerability and number of children connected to them:

Table 2

Nature of vulnerability of Nepalese children

| Sl. no. | Category of Children | Number | of |
|---------|----------------------|--------|----|
|---------|----------------------|--------|----|

| | | children |
|---|---|-----------|
| 1 | Total number of children (below 16 years) | 9,500,000 |
| 2 | Children who die of diarrhoea | 27,000 |
| 3 | Child labourer (5-14 years) | 260,000 |
| 4 | Bonded labourer | 40,000 |
| 5 | Homeless (Street children) | 5000 |
| 6 | Family less due to armed conflict | 2000 |
| 7 | Displaced due to armed conflict | 8000 |

Source: Child Rights Situation in Nepal 2004 (CWIN)

The children categorized in the above table under dying of diarrhoea, involved in labour, bonded labourer, homeless, family less, and displaced are in vulnerable condition. Especially, girl children working as domestic aid are prone to ill treatment, torture, child marriage, commercial sexual exploitation, sexual harassment, social exclusion and discrimination.

E. Elderly:

According to a survey report published by Central Bureau of Statistics, His Majesty's Government of Nepal in 2001, the population of elderly people in Nepal is 1,477,379. Though joint family system is traditionally practiced in Nepal, such a system is declining in the modern times. This has resulted in problems of support, love and care of the elderly people aged above 60. Risk to the elderly people of the rural areas has increased after the wake of the Maoist insurgency in 1996. This risk has been further aggravated by the urbanization, modernization, immigration of the youths for employment. The elderly people of the rural areas depend upon agriculture. Majority of them are suffering from the cumulative effect of a lifetime deprivation, entering old age in a poor state of health and without savings and material assets. They are deprived the basic needs such as food, shelter, clothing, health, medicine, clean drinking water. They have no access to means and opportunity of income generation. Moreover, the old women have no ownership to property also.

The elderly people in Nepal are in a vulnerable condition due to above causes. Hence, the senior citizens, above 60 years of age can be kept under vulnerable community in Nepal.

F. Disability:

Exact reliable size of disabled persons is not available from an authorized source. However, an estimate shows that 1.63 to 5.04 percent of total population of Nepalese is disabled of one or the other type and 90 percent of them live in the rural areas. (Ganesh Prasad Upadhyaya. Policy, Program and activities to protect and promote the rights and dignity of the disabled peoples in Nepal, 2003). National Population Census 2001 has produced following data regarding the type and number of disability:

Table 3

Types and number of disability

| S.no. | Type of disability | Ratio | Male | Female | Total |
|-------|--------------------|-------|-------|--------|-------|
| 1 | Physically disable | 0.18 | 19797 | 21001 | 40798 |
| 2 | Blindness | 0.07 | 5483 | 11043 | 16526 |
| 2 | Deaf | 0.11 | 11948 | 13592 | 25540 |

| | | | | | |
|---|---------------------|------|-------|------|-------|
| 3 | Mentally retarded | 0.06 | 64.79 | 6692 | 13171 |
| 4 | Multiple disability | 0.03 | 3455 | 4305 | 7760 |

Disability is itself vulnerability. Disabled people are viewed as financial burden in a family and 30 percent of them do not get any treatment. They do not receive any guarantee for education, social security, shelter etc. The situation of disabled women is even worse because they are regarded worthless in the society. The disabled women in the rural areas are more vulnerable than their counterparts in the urban areas because they are deprived of health, education and rehabilitation facilities. Most of the disabled persons in Nepal are unable to pursue independent life causing damage to their human dignity and prestige. This compels one to accept them as the most vulnerable community.

G. Refugee:

Bhutanese and Tibetan refugees in large number and other refugees in small number are currently receiving asylum in Nepal. A census carried out in 2004 enumerated the number of Bhutanese refugees to be 104,240 (Nepal in Figures, 2004, NPC/CBS, Kathmandu). Besides, there are about 30,000 Tibetan refugees in Nepal. The economic and social status of the Tibetan refugees is stronger than that of Bhutanese. But they are in vulnerable condition because they are not sure about their future and also lack the dignity of their national identity.

H. Labourer:

Vulnerability is closely associated with economy and labour market and the Nepalese labour market is not systematic. This has caused the livelihood of the labourers in a significant number to be vulnerable. The current situation of the Nepalese labourer is vulnerable because of low pay scale; lack of financial guarantee, insurance, medical facility and education to the children. Many companies or institutions do not even provide salary to their employees in time making their minimum daily expenditure uncertain. Especially, the labourers working in the industry, agriculture, manufacturing, transportation, construction, garment, carpet, cement factories are in the vulnerable condition. The number of labourers in some of the major sectors are given below:

Table 4

Distribution of labourers in major production sectors

| S.no. | Sector | Male | Female | Total |
|-------|----------------------------------|-----------|-----------|-----------|
| 1 | Agriculture and animal husbandry | 3,164,000 | 4,026,000 | 7,190,000 |
| 2 | Manufacturing | 366,000 | 186,000 | 553,000 |
| 3 | Hotel and Restaurant | 63,000 | 52,000 | 115,000 |
| 4 | Private and domestic activities | 80,000 | 209,000 | 289,000 |
| 5 | Construction | 292,000 | 52,000 | 344,000 |

(Pande, Binda. *Women Participation in Nepalese Labour Movement*, GEFONT 2001)

I. Landless:

Landless people are one of the most vulnerable communities. They do not have access to the source of sustainable livelihood and they have zero participation in the social and political participation. They do not have ownership of the natural resources and no access to the decision making level. Condition of their health, education and shelter is deplorable. They have no alternative opportunity and guarantee of employment. A large number of them are either partially or seasonally employed. Hand to mouth problem comes as a big problem when they have no job at hand. The political

leaders have treated them only as vote bank. During election period, the political leaders exchange their votes by luring them with small sum money or other attraction. But their problems are yet to be addressed by the governments. Though the 'Landless' Problem Resolution Commissions' were formed many times in the past, none of them could introduce effective policy to solve their problems.

There is no clear data of the total population of the landless people in Nepal. Large number of people from indigenous and ethnic communities are landless. Ratio of the landless people in the dalit community is 23 percent (Dalit Human Rights Situation in Nepal 2004 and Legal Provision – JUP – Nepal, Kathmandu). Similarly, 13,461 Kamaiyas are landless (Kamaiya Census, M/o Land Reform and Management, 2001). This shows that a significant number of people in Nepal are landless. Being landless in an agriculture based economy obviously means vulnerable.

J. Prisoners:

Prisoners in Nepal are in a vulnerable condition as being in the prison is itself a vulnerable condition. They pass their days inside walls in a deplorable condition. Causes of their vulnerability can be found in dilapidated living, accommodation and cooking facilities, inadequate and low quality food, health care, and recreational and educational facilities, lack of rehabilitation and social reintegration Programs; and inadequate access to legal advise and counsel (for under trial prisoners) and other information (HMGN, M/o Home Affairs, Department of Prison Management, Kathmandu, 2003, Department of Prison Management Project, Project Document Phase I).

The total capacity of the prisons in 73 districts of Nepal is 5000. But the data shows that there were 7132 prisoners in 2002. Many of the prisons in the Terai and the urban areas have become seriously over-crowded (CVICT 2001). Hence, the prisoners and the prisoners under trial in Nepal can be termed as vulnerable. Besides, the traditional legal system has contributed to deteriorate the situation. There are number of children who stay with their convicted mothers in the prison. They do not get the opportunity of proper education there. Poor condition of Nepal's prison system is one of the most critical problems facing Nepal's penal system.

K. Internally displaced persons (IDPs):

People in the rural areas have become vulnerable due to internally displacement in a significant number after the wake of Maoist insurgency. There is no uniform data of the internally displaced persons due to lack of comprehensive study on internal displacement. Following is a compilation of data published by various sources:

Table 5

Internally displaced persons in Nepal

| S no. | Source | Total number of Internally displaced |
|-------|---|--------------------------------------|
| 1 | INSEC (2003) | 38,191 |
| 2 | Home Ministry | 7343 |
| 3 | National Human Rights Commission, Nepal | 30,000 |
| 4 | Community Study and Welfare Centre | 350,000 |
| 5 | Association for Maoist Victims | 1600 |

| | | |
|---|---------------------------|---------|
| 6 | Claim of Informal Sources | 500,000 |
|---|---------------------------|---------|

First and fifth rows on the above table show the estimated number of people displaced internally, whereas the independent claims presented in the 6th row have also included those people who go to the nearest neighbouring country India. Shelter, food, minimum health service, drinking water, employment of the internally displaced is seriously affected. They are denied of their social security and fundamental rights. Access and participation to public areas has decreased. Internal displacement has seriously affected the lives of elderly people, women and children. Young people have been leaving their homes due to fear of being recruited forcefully by the Maoists. According to Halt, 35 thousand youths from a district having total 70 thousand population have escaped to India from a district (Kairan, Breaking the Conflict Trap, The World Bank, 2003). CWIN has mentioned in their report entitled 'Child Right Situation in Nepal, 2004' published in July 2004 that 8000 children have been displaced. Referring to the local police, a journalist reported from the Western Nepal that average 1500 people migrated to India from Nepalganj point of Indo-Nepal border seeking employment and peace everyday after mid November of the year 2004 (Samaya Nepali Weekly, Vol. 1, No. 33, 9 December 2004). Women and children are also included in such displacement.

The above data shows that a number of Nepalese youths have been displaced to the capital city Kathmandu, other urban areas and foreign land. Number of displaced with their families is also significant. In most of the cases, it is difficult task to find the actual number of the displaced and their whereabouts. Hence, it will be late if we do not take immediate action to address the problems of the displaced peoples.

1.3. Conclusion

On the above discussion, we have tried to briefly describe the situation of the people below poverty line and various classes having group identity and existence. There are many other sectors such as Haliya, people affected due to regional disparities, various minority ethnic communities who could not be included here. A significant group of vulnerable community is always ignored. They are neither minorities nor the oppressed. They are actually the youths of the so-called upper class Brahmin and Kshetris who are from the poor families, who do not have participation and access to the decisive level of the State and are marginalized from the mainstream politics. Due to the social hierarchy and existing socio-political structure, this group has been always struggling to make their identity and to occupy a noticeable space. Although these people are counted in the ruling class, a large number of poor and unemployed from this class is in equally vulnerable condition. Neither the State nor the foreign aid agencies have paid due heed to the grievances of this community. When we give a minute consideration to the historical movement of Nepal, we can find that the poor but educated people from the so-called upper class Brahmin and Kshetris have been in the leading position searching for their identity. To some extent, the current Maoist insurgency is also an expression of this bitter reality. Considering the overall scenario, one can say that almost half of the total population is in the vulnerable condition.

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Conceptualisation of Sustainable Livelihood

1.0. Conceptualisation of Sustainable Livelihood:

The term 'sustainable livelihood' was first used as a development concept in the early 1990s. Chambers and Conway (1991) defined sustainable livelihood as, 'A livelihood comprises people, their capabilities and their means of living, including food, income and assets. Tangible assets are resources and stores, and intangible assets are claims and access. A livelihood is environmentally sustainable when it maintains or enhances the local and global assets in which livelihoods depend, and has net beneficial effects on other livelihoods. A livelihood is socially sustainable which can cope with and recover from stress and shocks, and provide for future generations.'

People feel and assert themselves as citizens or group of citizens, to whom all the political and social actions are executed in a state where sustainable livelihood is guaranteed. Self-determination of the people is crucial to make way for sustainable livelihood which is reflected not only in the structure of the State but the people themselves have involvement in determining their well being to ensure freedom of access and participation through their confidence. People must be able to claim development and associated social and political rights from the State and not that it should come as an offering from the State. In fact, the people should be at the center of all the development activities affecting their livelihood.

Within UNDP (United Nations Development Program), the sustainable livelihoods agenda is part of the organisation's overall sustainable human development (SHD) mandate that was adopted in 1995. This includes poverty eradication, employment and sustainable livelihoods, gender, protection and regeneration of the environment and governance. In this context, the SL approach is one way of achieving poverty reduction, though there are also other strategies being pursued within the organisation (e.g. macroeconomic growth, community development, community-based natural resource management, etc.).

2. Core emphasis and definitions

As one of UNDP's five corporate mandates, sustainable livelihood offers both a conceptual and programming framework for poverty reduction in a sustainable manner. Conceptually, 'livelihoods' denotes the means, activities, entitlements and assets by which people make a living. Assets, are defined as natural/biological (i.e. land, water, common-property resources, flora, fauna); social (i.e. community, family, social networks); political (i.e. participation, empowerment - sometimes included in the 'social' category); human (i.e. education, labour, health, nutrition); physical (i.e. roads, clinics, markets, schools, bridges); and economic (i.e., jobs, savings, credit). The sustainability of livelihoods becomes a function of how men and women utilise asset portfolios on both a short and long-term basis. Sustainable livelihoods are those that are:

- able to cope with and recover from shocks and stresses (such as drought, civil war, policy failure) through adaptive and coping strategies;
- economically effective;
- ecologically sound, ensuring that livelihood activities do not irreversibly degrade natural resources within a given ecosystem; and

- socially equitable, which suggests that promotion of livelihood opportunities for one group should not foreclose options for other groups, either now or in the future.

Within UNDP, SL brings together the issues of poverty, governance and environment. UNDP employs an asset-based approach and stresses the need to understand adaptive and coping strategies in order to analyse use of different types of assets. Other key emphases of UNDP are:

- that the focus should be on strengths, as opposed to needs
- that macro-micro links should be taken into consideration and actively supported; and
- that sustainability (as defined in the four bullet points above) is constantly assessed and supported.

Unlike the other agencies covered in this review, UNDP explicitly focuses on the importance of technology as a means to help people rise out of poverty. One of the five stages in its livelihoods approach is to conduct a participatory assessment of technological options that could help improve the productivity of assets. (Where such assessment shows that indigenous technologies are very effective, UNDP's goal would be to ensure that these are adequately understood and promoted by government or non-governmental agencies that work with local people.)

Development agencies such as DFID, UNDP, ODI, CARE, AME, HIVOS, Oxfam and many others developed their own methods and approaches in designing livelihood interventions. Some of them are discussed here.

3. Definition of livelihood

Livelihoods are a multidimensional whole embracing all forces and constraints, material and non-material in nature that determines a families' existence. Livelihoods are ways of keeping oneself meaningfully occupied by using one's endowments (human and material) to generate adequate resources to meet the requirements of the household in a sustainable manner (www.basixindia.com).

According to DFID / CARE / Oxfam, "a livelihood comprises the capabilities, assets (stores, resources, claims and access) and activities required for a means of living; a livelihood is sustainable which can cope with and recover from stress and shocks, maintain or enhance its capabilities and assets, and provide sustainable livelihood opportunities for the next generation; and which contributes net benefits to other livelihoods at the local and global levels and in the long and short term." (Chambers, R. and Conway, G. in Sustainable rural livelihoods: Practical concepts for the 21st century, IDS Discussion Paper 296 (1992).

DFID Model

Drawing on the Chambers definition as well, DFID (Britain's Department for International Development) stresses that there are many ways of applying livelihoods approaches (there is not one single approach) but that there are six underlying principles to all these approaches: Poverty-focused development activity should be:

- People-centred: sustainable poverty elimination will be achieved only if external support focuses on what matters to people, understands the differences between groups of people and works with them in a way that is congruent with their current livelihood strategies, social environment and ability to adapt.
- Responsive and participatory: poor people themselves must be key actors in identifying and addressing livelihood priorities. Outsiders need processes that enable them to listen and respond to the poor.
- Multi-level: poverty elimination is an enormous challenge that will only be overcome by working at multiple levels, ensuring that micro level activity informs the development of policy and an effective enabling environment, and that macro level structures and processes support people to build upon their own strengths.
- Conducted in partnership: with both the public and the private sector.
- Sustainable: there are four key dimensions to sustainability - economic, institutional, social and environmental sustainability. All are important - a balance must be found between them.
- Dynamic: external support must recognise the dynamic nature of livelihood strategies, respond flexibly to changes in people's situation, and develop longer-term commitments.

DFID has stressed the importance to livelihoods of capital assets and distinguishes five categories of such assets: natural, social, physical, human and financial. It has also stressed the need to maintain an 'outcome focus', thinking about how development activity impacts upon people's livelihoods.

Broadly speaking DFID aims to promote sustainable livelihoods through direct support to assets by providing poor people with better access to the assets that act as a foundation for their livelihoods; and support to the more effective functioning of the structures and processes (policies, public and private sector organisations, markets, social relations, etc. that influence not only access to assets but also that the livelihood strategies are open to poor people.

The idea that links these two ideas is one of empowerment. Generally speaking, if people have better access to assets they will have more ability to influence structures and processes so that these become more responsive to their needs. At a higher organisational level DFID has identified three types of activity that can contribute to poverty elimination:

- Enabling actions are those which support the policies and context for poverty reduction and elimination.
- Inclusive actions are broad-based and improve opportunities and services generally. They also address issues of equity and barriers to participation of poor people.
- Focused actions are targeted directly at the needs of poor people.

SL approaches can contribute in all these areas. Work at the level of 'transforming structures and processes' clearly links to enabling actions. Support to the accumulation of different types of assets might be either inclusive (e.g. education Programs) or focused (e.g. supporting micro finance organisations for poor women).

CARE uses the Chambers and Conway definition of livelihoods. From this, it identifies three fundamental attributes of livelihoods – the possession of human capabilities (such as education, skills, health, psychological orientation); access to tangible and intangible assets; and the existence of economic activities.

The interaction between these attributes defines what livelihood strategy a household will pursue. CARE's emphasis is on household livelihood security linked to basic needs. Its view is that a livelihoods approach can effectively incorporate a basic needs and a rights-based approach. The emphasis on rights provides an additional analytical lens, as do stakeholder and policy analysis, for example. When holistic analysis is conducted, needs and rights can thus both be incorporated as subjects for analysis. This focus on the household does not mean that the household is the only unit of analysis, nor does it mean that all CARE's interventions must take place at the household level.

As with DFID's SL model CARE's framework is people-centred. They seek to understand the needs of vulnerable people and how those needs are met in order to improve livelihoods. The main difference between this model and the SL framework is that it focuses more at the household level. CARE's model centres around a household's livelihood strategy: the asset box, as depicted in the diagram includes the capabilities of household members, the assets and resources to which they have access, as well as their access to information or to influence others and their ability to claim from relatives, the state or others actors. In doing so, there is a realisation that production and income activities are only a means to improving livelihoods and not an end in themselves. To evaluate what changes are taking place in the livelihood security status of households requires a monitoring focus on the consumption status and asset levels of household members.

The need for holistic analysis as the basis for a livelihoods approach often engenders nervousness in Program staff who fear that it implies a lengthy, in-depth and complex process. However, a frequent misconception concerning the livelihoods approach is that holistic analysis must necessarily lead to holistic or multi-disciplinary projects. Although projects with a strong livelihoods approach may often work across a number of technical disciplines, applying a livelihoods approach does not preclude projects being largely sectoral in nature. What is important is that a broad ("holistic") perspective is used in the design to ensure that cross-sectoral linkages are taken into account, and that the needs addressed in project activities are really those which deal with the priority concerns of households and build upon the experience and traditional coping mechanisms they have evolved.

HIV/AIDS and Livelihoods

While the need to mitigate the effects of HIV/AIDS is increasingly acknowledged in the societies like that of Africa, it is equally important to recognize that food and livelihood security is a key element of prevention. Prevention is usually considered to be the health sector's responsibility and most commonly involves education and the

promotion of safer sexual practices. However, food and livelihood insecurity often leads people into behaviours and strategies that increase their risk of infection, such as migration and prostitution. Improving livelihoods, especially among the most vulnerable groups in society, can provide a concrete way to tackle one of the most fundamental issues behind the spread of HIV.

Sustainable livelihood: Gender perspective

There are many aspects of gender and sustainable livelihoods, related to the various concepts assumed in sustainable livelihoods, as well as the methodology, and evaluation, including the implications of gender for sustainable livelihood indicators. Indeed, many of the issues which could be raised here can also be raised in the context of other development approaches, many of which are reflected in various ways in the rather broad specification of sustainable livelihoods.

Every single step of the proposed sustainable livelihoods approach contains aspects of gender which must be addressed specifically. In the framework's focus on equity and participation, this seems to be par for the course. However, specific attention is required because, although gender equity and gender analysis may seem obvious in the methodology, experience has shown that where it is not singled out, it tends to be marginalized.

As the sustainable livelihoods approach to programming begins to take hold, there is clearly a need to incorporate as many lessons from other models, past and present, of development as possible, so as to not replicate work already done. Although not an approach to development on its own, methodologies and experiences derived in multi-disciplinary feminist analyses seem to offer some lessons for the sustainable livelihoods approach and should be explored vigorously.

Overall, as Hoon et al. (1997) note, there are still significant wrinkles to be ironed out in formalizing the sustainable livelihoods concept, as well as moving it on to the stage where it can be operationalized. Among the significant challenges are in promoting a more widely understood notion of the various components, including its basic tenets of coping and adaptive strategies, and the interactions of these with natural and social stimuli, including socio-economic policies. This is extremely important because unless the underpinnings of the approach are well understood and accepted as valid by the various stake holders in the development field, outcomes from its implementation are likely to be insignificant with regard to wide spread, sustainable poverty eradication.

In addition to the concepts, the methodology also needs to gain a critical mass of believers both within and outside the UNDP. The wide propagation of results obtained on initial efforts at implementation will go a long way in bringing this about. Also, establishing clear linkages, and where appropriate demonstrating differences with other approaches will also assist in this. Ultimately, the SL approach must demonstrate clearly its value added, as well as its rigor at both the conceptual and methodological level.

Finally, it is imperative that clearly defined and easily applicable gender-sensitive indicators of sustainable livelihoods be developed. It would be very difficult to

demonstrate effect without specific measures. The development of indicators is usually complex, and the results frequently controversial. This is compounded, in the SL approach by the fact that the concepts are still being formulated, and the fact that it covers such a wide range of possible indicators. Since sustainable livelihoods must essentially be defined within given physical and social parameters, no one set of highly specific indicators will apply to all conditions. However, there are many commonalities across communities which suggest the development of at least sets of "guiding indicators" which can be more specifically adjusted to specific conditions.

4. Conclusion

According to the livelihoods approach (Carney, 1998), the household or individuals within the household aim to "optimise" the household's situation given its resource base and the socio-economic environment (e.g. agro-ecological situation, market access, institutional environment, etc.) or their own individual goals and priorities. The individual's or household's capitals are used in such a way as to increase this particular capital or one of the others. For instance, financial capital can be used to increase social or political capital (supporting family or friends, buying votes). The livelihood approach does not necessarily part from the model of a unitary household, as a single entity in relation to consumption and production, but realises that inequalities within households (due to gender relations or life cycle status) may lead to conflicting intended use of the resource base.

A livelihood comprises the capabilities, assets (stores, resources, claims and access) and activities required for a means of living (Chambers and Conway, 1992). Carney (1998) further refined this concept through the livelihoods framework, which sees livelihoods based on five classes of capital assets: natural, human, social, physical and financial.

A sustainable livelihood is one that can deal with and recover from various stresses and shocks, can maintain or enhance its capabilities and assets, can provide sustainable livelihood opportunities for the next generation; and can contribute to the net benefits of other livelihoods at the local and global levels in the short and long term (Chambers and Conway, 1992). The livelihood concept is a dynamic one: the quality of a livelihood can fluctuate between seasons and from one year to another. There are urban-rural differences and regional differences, but there are also interrelationships where rural households may depend on remittances from urban migrants for instance.

On the basis of the above discussion we can sum up that the fundamental issues for defining provision of livelihood includes:

1. Access to adequate standard of living including food, shelter, clothing, and livelihood;
2. The right to self-determination for social, economic and cultural development;
3. Ownership of natural resources and access to their development;
4. The enabling of choice for men and women for employment and work.

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The Concept of Social and political participation

1. The Concept of Social and political participation

Social and political participation seem to be separate concepts in surface. In some other cases they are used synonymously. But they are complementary to each other in the context of right to social and political participation. Social participation has been defined in a narrow sphere whereas the area embraced by political participation is broader. Social participation is a concept that empowers to increase people's participation in the development process and activities. Political participation empowers people to determine their political status through their own decision for their participation in the governing system. This emphasizes the people's participation in the regulation of political system. It puts forward the concept of people's participation in the national political process. It is necessary to discuss here briefly about the definition of the social participation and political participation before we venture to identify the basic provisions pertaining to them.

2. Definition of social participation:

Social participation is a process that promotes social life of the people, encourages participation of people in development and policy formation process to ultimately ensure access to adequate standard of living. Social participation implements the economic, social and cultural rights of the people through their social activities. Social participation contributes to the enjoy civil and political freedom.

Broadly speaking, social participation refers to a process of organizing people in a society to transform, in the context of economics, politics, religion, culture or even health practices. That concept has long been trying to replace the traditional way of living with the modern daily ways of life in the process of change. However, in recent years, social participation also denotes a new approach of local development efforts and empowerment of vulnerable groups and marginalized communities in which local people are no longer seen as ignorant, passive or reluctant recipients of outside aid, but as competent actors possessing vital knowledge about their situation. Social participation here is seen as a catalysing process by which people living in a community are organized into groups to share and discuss problems, to seek solutions by mobilizing their own and outside resources, and to become more active participants in the decision-making processes that affect their lives as individuals, households and community.

Social participation efforts may target one specific aspect of daily life, such as immunization or combat against trafficking, or may constitute a key element of a literacy campaign.

3. Definition of political participation:

There is no universal definition of political participation; however, it is regarded as the strongest foundation of the political system. Success and failure of a political system depends upon people's participation in it. This is also a scale to evaluate the attachment of the political system to the people and democracy. Myron Weiner notes, "Political participation is the organized effort of citizens to choose their leaders and to influence the formation and conduct of public polity." (Myron Weiner, Political Participation and Political Development in Myron Weiner (Ed) Modernization: The Dynamics of Growth).

Above definition shows that political participation includes people's participation in choosing their representatives and their involvement in policy making and governance. Political participation is meaningful only through wider participation of the people in the political process and activities. In the contemporary world, we should not forget that the western capitalist scholars regard involvement of the people in the policy making or electing policy makers as political participation. The leftist scholars regard the participation of the people in the implementation level as political participation. However, both schools of thought have emphasized broader participation of the people.

There are various types of political participation – mass participation, limited participation, non-participation. Political system of a country, people's economic status, political awareness, consciousness and tradition always affect social and political participation of the people.

Political participation refers to those voluntary activities by which members of a society share in the selection of rulers and directly or indirectly, in the formation of public policy. The term "apathy" will refer to a state of withdrawal from, or indifference to, such activities. These activities typically include voting, seeking information, discussing and proselytising, alternating meetings, contributing financially, and communicating with representatives. The more 'active' forms of participation include formal enrolment in a party, canvassing and registering voters, speech writing and speech makings, working in campaigns, and competing for public. After this brief introduction of social and political participation, we now move to discuss about the major provisions regarding this.

4. Key provisions of social and political participation

A closer view of the above definitions may facilitate identification of realistic provisions of social and political participation of the people. Both the social and political participation stress people's right to development, empowerment, security, equality and self-determination. In other words, attainment of opportunity to fully enjoy the civil and political rights is the foundation of social and political participation. Social, economic and cultural aspects cannot be separated from social and political participation. The meaning of social and political participation is incomplete without full guarantee of economic, social and cultural rights. In this connection, we can take into account some provisions of social and political participation summed up as below:

1. Promotion and enabling the fundamental rights of the people:

Question / issue of fundamental rights comes in the forefront while discussing people's rights. As people are the focus of social and political participation, guarantee of fundamental rights is indispensable. In fact, guarantee of fundamental rights is the prerequisite for this. There are many dimensions of fundamental rights which are considered as basic elements of social and political participation in the modern practice. Rights to equality, freedom, thought, conscience, religion, ideology, expression, assemble, association, security, movement, franchise are universally recognized as the fundamental rights of the people. Promotion of these fundamental rights by the State alongwith the empowerment of the people ensures social and political participation.

2. The rights of self-determination and determination of people's political status:

Right to social and political participation gets momentum only when the people themselves determine their political status. Political status of the people is determined

through their capacity and right to enjoy the privileges such as participation to political activities, franchise, candidature, to cast vote to the candidate of one's choice and ultimately participate in the formation of the government. The right to self-determination includes people's right to choose a political party they agree with and to determine their relations with other organizations. It focuses their right to determine their own governing system. ICCPR has also mentioned about the right to self-determination. The Covenant states that the people should be free to determine their political status and pursue their economic, social and cultural development.

3. Promotion and empowerment of the people's right to participate in the government:

Participation in the government relates to guaranteeing the rights of the people to represent in the political parties, access of the vulnerable groups and marginalized communities to the political parties and right to vote and to be elected under fair election. People participate in the government by selecting the ruler, participating in the policy formation, expressing their views through their representatives, running election campaign and so on. But the adoption of the democratic system by the State / government is prerequisite for ensuring all these activities. Neither we can expect social and political participation of the people under one party or partyless system, nor the multi-party system alone is sufficient for ensuring this. Effective Programs and liberal policy is required for the promotion and empowerment of the people's right to participate in the governing system.

4. Equality and non-discrimination before the law:

Equality, based in equity and non-discrimination, is the basic provision for ensuring social and political participation of the people. Equality and non-discrimination are inextricably linked to each other. Historically, the human rights practices have considered denial of justice and fundamental human rights as discrimination. This exists in the social, economic, cultural and political spheres of the society. Equality and non-discrimination are, in fact, inalienable elements in the opportunity to enjoy social and political participation. This addresses equity, equality, human dignity and the principle of universal standard of human rights.

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Access to livelihood and justice of the victims of conflict including IDPs

आन्तरिक विस्थापितसहित द्वन्द्व पीडितहरूको जीविका र न्यायमाथि पहुँच

अधिवक्ता वीरद्रप्रसाद थपलिया

१. पृष्ठभूमि :

माओवादी विद्रोहका कारण नेपालको राजनैतिक तथा सामाजिक अवस्था अन्त्यन्तै नाजुक स्थितिमा पुग्यो । विद्रोह सुरुभएयता हामीले सामना गर्नु परेका मुख्य क्षतिलाई तीन किसिमले उल्लेख गर्न सकिन्छ । पहिलो- आन्तरिक विस्थापन, दोस्रो- मानवीय क्षति र तेस्रो- भौतिक क्षति । यी तिनै प्रकारका क्षतिहरूको संक्षिप्त विवरण निम्न छः-

आन्तरिक विस्थापितहरूको अनुमानित संख्या

| क्र. सं. | विवरण | संख्या |
|----------|------------------------------|----------------------|
| १. | आन्तरिक रूपमा विस्थापित भएका | १,००,००० २,००,००० |
| २. | भारततर्फ भागेका | ५००,००० |
| ३. | १८ वर्षमुनिका बालबालिका | १,००,०००-१,२०,००० |
| जम्मा | | ७०००००-८००००० |

स्रोत: वाच लिस्ट बालबालिका र सशस्त्र द्वन्द्व सम्बन्धी, जनवरी २००५, युद्धको चपेटामा: नेपालको सशस्त्र द्वन्द्वमा बालबालिका विरुद्ध बढ्दो हिंसा ।

२००३ देखि २००५ सम्मको मानवीय क्षतिको विवरण

| क्र.सं | घटनाको प्रकार | माओवादी पक्ष | राज्यपक्ष | जम्मा |
|--------|----------------------|--------------|-----------|-------|
| १. | हत्या | २४०३ | ३७३४ | ६०३७ |
| २. | घाइते | २५५९ | ८६४ | ३४२३ |
| ३. | बमविस्फोट | १०९ | ५ | ११४ |
| ४. | हिरासत/थुनामा मृत्यु | - | २४ | २४ |
| ५. | यातना/गिरफ्तारी | - | ८८०१ | ८८०१ |
| ६. | वेपत्ता | - | ८०१ | ८०१ |
| ७. | बलात्कार | ९ | १७ | २६ |
| ८. | अपहरण | ५४०९१ | - | - |

स्रोत : अनौपचारिक सेवा केन्द्र (इन्सेक) मानवअधिकार वर्ष पुस्तक २००३,००४,००५

माथिको तालिकामा प्रस्तुत गरिएको वेपत्ता सम्बन्धी तथ्याङ्क र माओवादी अध्यक्ष प्रचण्डको तथ्याङ्कमा ठूलो फरकपन रहेको छ । हालसालै नेपाली सेवा विविसीलाई अन्तरवार्ता दिने क्रममा प्रचण्डले राज्यले ५ हजार र माओवादी समुहले लगभग ३५० जनालाई वेपत्ता पारेको बताएका थिए । हत्या, यातना, बलात्कार, अपहरण, क्रूर व्यवहार, वेपत्ता, व्यक्तिलाई बन्धक बनाउनु, आधारभूत मानवीय सेवाका स्रोतमा अवरोध पुऱ्याउने, विद्यार्थी, शिक्षक र विद्यालयमाथिको सैनिक लक्ष्य, बालबालिका र बालसैन्यको प्रयोग र आन्तरिक विस्थापन आदि मानवीय क्षति हुन् । यस्ता मानवीय क्षतिको कारण सिर्जित पीडाको असर लामो समय रहन्छ । युद्धग्रस्त क्षेत्रका धेरै बालबालिका र महिलाहरूले श्रीमान् र बाबुहरू मात्र गुमाएका छैनन् कि आफ्ना परिवारका सदस्यहरूलाई के भएको छ, भन्नेसम्म पत्ता लगाउन सकेका छैनन् । द्वन्द्वको सम्पूर्ण मूल्य मानव सुरक्षासँग सम्बन्धित छ । मारिएकाहरूको संख्या दुखान्त मापन हो । त्यसको पीडा आफन्तहरूको अनुहारमा देख्न सकिन्छ । यो पीडाले नागरिक र

राज्य दुवैलाई चिरकालपर्यन्त तर्साइरहने छ । सशस्त्र संघर्षबाट सिर्जित प्रत्यक्ष वा अप्रत्यक्ष असरले मुलुकको सामाजिक, आर्थिक र राजनीतिक क्षेत्रमा लामो समयसम्म सताइरहनेछ । यसबाट राज्यको आर्थिक क्षमता, उत्पादन क्षमता, सामाजिक सुरक्षा र विकास पुर्वाधारमा समेत ठूलो संकट देखा पर्ने निश्चित छ । जुन हामीले भोगिरहेका छौं । व्यापार, वाणिज्य, लगानी र शैक्षिक क्षेत्रमा नकारात्मक असर पाउँछ । विस्थापनका कारण पूँजीमा पलायन र सार्वजनिक लगानीमा ज्हास आउँदछ । राज्यले विकास र सामाजिक सुरक्षाको खर्च कटौती गरी युद्ध सामग्रीमा लगानी गरेको छ । तल दिइएको तालिकाबाट हाम्रो बढ्दो सुरक्षा खर्चको स्थितिले हाम्रो विकासको अवस्थालाई कतातिर धकेल्दैछ, भन्ने स्पष्ट पार्दछ-

सशस्त्र संघर्ष र सुरक्षा खर्च (अर्वमा)

| आथिेक वर्ष | शाही सेना | जनपद + सशस्त्र प्रहरी | जम्मा |
|------------|-----------|-----------------------|-------|
| ०५४/०५५ | २.६८ | २.५३ | ५.१६ |
| ०५५/०५६ | ३.०३ | २.९२ | ५.९५ |
| ०५६/०५७ | ३.५१ | ३.३२ | ६.८३ |
| ०५७/०५८ | ३.९० | ५.२७ | ९.१७ |
| ०५८/०५९ | ५.८८ | ७.२८ | १३.१६ |
| ०५९/०६० | ७.५० | ७.५९ | १५.०९ |

स्रोत : नेपाल पाक्षिक, १६-२९ माघ २०६०, वर्ष ४, अंक १२।

पछिल्लो समयमा सुरक्षा खर्च २१ अर्व नाघिसकेको अनुमान गरिएको छ । जनयुद्ध सुरु भएदेखि सन् २००२ सम्ममा हिंसात्मक द्वन्द्वको मूल्य कम्तीमा पनि दुइ खर्व १९ अर्व ४६ करोड रुपैयाँ पुगेको थियो । यो राशी २००२/००३ को कुल गार्हस्थ उत्पादन ४ खर्व ४६ अर्व १४ करोड रुपैयाँको ४९.०४ प्रतिशत हुन जान्छ । सैन्यवाद र सैनिकीकरणबाट राज्यमा उत्तमन्न हुने सम्भाव्य परिस्थिति र त्यसबाट चुकाउनु पर्ने मूल्य धान्न राष्ट्रलाई निकै कठिन भएको छ ।

द्वन्द्व मूल्यमापनको मोटामोटी अनुमान

| विवरण | मूल्य |
|---|---------------------------------|
| प्रत्यक्ष मूल्य | |
| प्रत्यक्ष सरकारी सुरक्षा खर्च | ३९ अर्व ६३ करोड |
| माओवादी सैन्य खर्च | एक अर्व ९४ करोड-दुइअर्व १३ करोड |
| भौतिक संरचना, ब्याङ्कलगायतका क्षति | २५ अर्व * |
| अप्रत्यक्ष मूल्य | |
| माओवादी हडताल/बन्दका कारण व्यापार घाटा | एक खर्व |
| पर्यटक घट्दो आयाममा भएको क्षति | ११ अर्व ५ करोड |
| मानव संशोधनको क्षतिले आयश्रोतमा परेको असर | १४ अर्व ४ करोड |
| विस्थापनको कारण आयश्रोतमा पुगेको क्षति | ८ अर्व ** |
| सार्वजनिक लगानी पलायनबाट भएको क्षति | १२ अर्व ३० करोड*** |
| प्रत्यक्ष वैदेशिक लगानीमा परेको असर | ६ अर्व ५ करोड |
| * पुर्वाधार निर्माणको क्षतिबाट भएको घाटा २० अर्व । | |
| ** कृषि उत्पादन र घरेलु उद्योग बन्द हुन गई दुई वर्षको अवधिमा पुगेको क्षति । | |
| *** सन् २००२/०३ मा स्थानीय विकासका लागि छट्याइएको रु. पाँच अर्व ८८ करोड ९६ लाख स्थानीय निकायको म्याद सकिएपछि 'फ्रिज' हुन गई रक्षातर्फ लगियो । | |

स्रोत : नेपाल पाक्षिक, १६-२९ माघ २०६०, वर्ष ४, अंक १२।

माओवादी सैन्य खर्च माथि प्रस्तुत गरिएको भन्दा बढी भएको अनुमान गरिएको छ । हाल माओवादी सैन्य खर्च २-३ अर्व रहेको अनुमान गरिएको छ । अतः द्वन्द्वको न्यायपूर्ण रुपान्तरण नहुनु राष्ट्रका लागि दुर्भाग्य हो । यद्यपि वर्तमान युद्धविराम, सरकार तथा माओवादी विचको वार्ता र शान्ति प्रक्रियाप्रतिको प्रतिवद्धतालाई हेर्दा निश्चित रुपमा मुलुकमा शान्ति स्थापना हुनेछ । यो अवसरलाई हामीले शान्ति, लोकतन्त्रको संस्थागत विकास र पीडितहरूको अधिकार रक्षाका लागि सदुपयोग गर्न सक्नु पर्छ । यसका साथै हामीले संक्रमणकालीन न्यायको चुनौतिलाई पनि सामना गर्नु परेको छ ।

२. पीडित र विस्थापितका स्वरुप

सशस्त्र द्वन्द्वको सन्दर्भमा पीडितहरूको स्वरुपलाई विभिन्न किसिमले वर्गीकरण गर्न सकिन्छ । सरकारी सुरक्षाफौज तथा माओवादी पक्षबाट गम्भीररुपमा मानवअधिकार तथा मानवीय कानुनको उल्लंघनका कारण पीडित हुन पुगेकाहरूलाई पीडितको वर्गमा राखिनु पर्छ । पीडित हुन विवस व्यक्तिहरूका पछाडि विविध हिंसात्मक गतिविधिहरूका साथै आक्रमण-प्रत्याक्रमणका श्रृङ्खलाका घटना र कार्यहरू जिम्मेवार छन् । उदाहरणका लागि दोरम्वा, कालीकोट कोटवाडा, चितवन माडी, वाजुराको कोल्टी आदि घटनाका पीडितहरूलाई लिन सकिन्छ । यसरी हेर्दा- हत्या, यातना, बलात्कार, शारीरिक दण्ड, अडगभडग, वेपत्ता, क्रूर व्यवहार, बारूदी सुरुङ्ग र धराप आदि कारणले परिवारका सदस्य गुमाएर पीडित भएका परिवार तथा व्यक्तिलाई पीडितहरूको स्वरुप भनेर पहिचान गर्नुपर्ने हुन्छ ।

नेपालमा आन्तरिक रुपमा विस्थापनको मुख्य कारण माओवादी जनयुद्ध थियो भन्ने कुरामा कुनै शंका छैन । यसरी विस्थापित हुने व्यक्तिहरू मुख्यतया तीन किसिमका छन्-

१. माओवादीहरूले प्रत्यक्ष धम्क्याएका र लक्ष्य गरेका धनी/सम्पन्न जमिन्दारहरू (शोषकको आरोप लागेका), सरकारी कर्मचारी, शिक्षक र अन्य व्यक्तिहरू,
२. सामान्यतया विभिन्न खालका सामाजिक पृष्ठभूमिमा रहेका सशस्त्र द्वन्द्वबाट प्रत्यक्ष प्रभावित गरिव नागरिकहरू वा आम हिंसा र असुरक्षाका कारण भागेकाहरू,
३. जबर्जस्ती माओवादी सेनामा भर्ना र उनीहरूको उत्पीडन र सुरक्षा फौजको कारवाहीको डरले गाउँबाट भागेका युवाहरू ।

३. द्वन्द्वका कारण अत्याधिक जोखिममा परेका समूह
द्वन्द्वले अधिकांश नेपाली भू-भागमा रहेका वस्तीलाई जोखिममा पार्‍यो । यद्यपि, द्वन्द्वको प्रवृत्तिलाई हेर्दा सुरक्षाफौजद्वारा तल्ला जाति, आदिवासी-जनजाति र दलितहरूमाथि बढी निसाना बनाइयो । माओवादीहरूले भने उच्च जातिका क्षेत्री, वाहुन र ठकुरीहरूका साथै राजनैतिक कार्यकर्ताहरूमाथि आक्रमण गरेको पाइयो । यो एउटा समग्र दृष्टान्त मात्र हो । वास्तविकताको गहिराइ यो भन्दा धेरै तलसम्म छ । उदाहरणका लागि Human Rights Watch द्वारा प्रकाशित डिस्क्रिमिनेइशन अगेन्स दलित् इन नेपालका अनुसार सरकारले नेपालका ४५ लाख दलितहरूले माओवादी हिंसालाई सक्रिय सहयोग गरेको जनाएको थियो । फलतः यस जातिका बालबालिका सहित व्यक्तिहरू शंकास्पद माओवादीका रुपमा सुरक्षाफौजको आक्रमणमा परे । माओवादीहरूले पनि दलितहरूलाई आक्रमणको तारो बनाएका थिए । अप्रिल २००४ मा कान्तिपुरले प्रकाशित गरेको “माओवादीले ३०० वन्दीलाई सेनामा भर्ना हुन बाध्य पारे” समाचारमा डडेल्धुराको लामिकाँडेका ३०० दलित युवाहरूलाई अपहरण र सैन्य तालिमका लागि जबर्जस्ती गरिएको उल्लेख थियो । यथार्थमा ग्रामीण भूभागका सोभ्साभा निरक्षर व्यक्तिहरू नै बढी जोखिममा परे । जनजाती तथा दलितका अलावा अन्य वर्गका मानिसहरूको जोखिमता पनि कम थिएन । अधिकांश विस्थापितहरू मध्यम वर्गका नै रहेका छन् । विस्थापनमा क्षेत्री, वाहुन, जनजाती र दलित गरी सबै वर्गका परेका छन् । महिला, बालबालिका, विद्यालय, शिक्षक र विद्यार्थीहरू अत्यन्तै जोखिममा परे ।

४. द्वन्द्व पीडित र विस्थापितहरु गम्भीर मानवीय संकटमा

द्वन्द्वका कारण के-कति मानिस विस्थापित र पीडित भए भन्ने विषयमा एकिन लेखाजोखा भएको छैन । अर्कोतर्फ उनीहरुको न्याय र जीविकाको स्थितिप्रति राज्यका साभेदारहरु संवेदनशील हुन सकिरहेका छैनन् । यथार्थमा यी व्यक्तिहरु गम्भीर मानवीय संकटको चक्रमा पिसिएका छन् । जसलाई निम्नरूपमा संक्षेपीकरण गरिएको छ -

| संकटको वर्गीकरण | संकटमा परेका पक्ष र आवश्यकता |
|-------------------------------------|--|
| आधारभूत मानवीय आवश्यकतामा संकट | आवास, खाना, स्वास्थ्य सेवा, शिक्षा, रोजगारी, आपतकालीन उद्धार, व्यवस्था र राहत, खानेपानी, शौचालय |
| न्याय र अधिकारको प्रत्याभूतिमा संकट | उपचार र क्षतिपूर्तिको अभाव, दोषीलाई न्याय प्रक्रियाभित्र ल्याउन नसकिनु, अधिकारहरुको प्रत्याभूतिमा अभाव, पीडितको रक्षा गर्ने कानूनको अभाव |

मानवीय सुरक्षाको सन्दर्भमा हामीले तीनवटा कठिनाईहरुलाई सामना गर्नुपरेको छ । पहिलो-समुदाय तथा व्यक्तिको सुरक्षा विरुद्धका धम्की हो । यस्तो धम्कीका शिकार जोखिम स्थितिमा रहेका व्यक्तिहरु हुने गरेका छन् । दोस्रो-द्वन्द्वमा विविध किसिमले हुने मानवअधिकार उल्लंघन र तेस्रो-गरिवी र आर्थिक शोषण । यी तीनै किसिमका मानवीय सुरक्षाका बाधाहरु नेपालमा विद्यमान छन् । अतः द्वन्द्वपीडितहरुको जीविका र न्यायको प्रत्याभूतिको सवालसँग यी बाधाहरु जोडिएका छन् ।

५. पीडितका अधिकार

जस्तोसुकै परिस्थितिमा पीडितका अधिकारको राज्यले प्रत्याभूति गर्नुपर्दछ । अन्तर्राष्ट्रिय न्यायले पीडितहरुको अधिकारको रक्षा गर्ने उद्देश्यसहित पीडितलाई (प्रत्यक्ष वा अप्रत्यक्ष रूपले) सहयोग गर्ने रणनीतिहरुसम्मको अधिकारलाई पीडितहरुको अधिकार भनी परिभाषित गरेको छ । यी अधिकारहरु भित्र-

क) गम्भीर अपराधहरुको बारे सत्य-तथ्य थाहा पाउने अधिकार;

ख) न्याय पाउने अधिकार, प्रमुख रूपले

- गम्भीर किसिमका अपराधका आशंकित सुत्रधारहरुको फौजदारी क्षेत्राधिकारबाट अभियोजन र पुर्पक्ष गराई पाउने;

- क्षति नोक्सानीको पर्याप्त राहत प्राप्त गर्ने;

- आवश्यक भएमा, प्रशासकीय निकायहरुमा पहुँच प्राप्त गर्ने ।

२. यी अधिकारहरुमा कहिल्यै पनि सम्झौता गर्न सकिन्न ।

३. अन्तिम भई निर्णय भएको सम्पूर्ण फैसलाहरुको अनिवार्यरूपले कार्यन्वीत हुनुपर्दछ ।

त्यसै गरी, विस्थापित व्यक्तिका अधिकारहरु निम्न रहेका छन् :

१. बाँच्न पाउने अधिकार,

२. वलात्कार, यातना, क्रूर र अमानवीय व्यवहार, जवरजस्ती वेश्यावृत्ति, लैङ्गिक विभेदयुक्त हिंसाहरु, दासता, वैवाहिक वेचविखन, यौन शोषण, जवरजस्ती बालश्रम, आतंकित पार्नका लागि गरिने हिंसाका घटनाहरु, धम्कीहरु वा त्यस्ता कार्य गर्न उक्साउने कार्यबाट सुरक्षा पाउने अधिकार,

३. स्वतन्त्रता, सुरक्षा वा गैरकानुनी गिरफ्तारी विरुद्धको अधिकार,

४. विस्थापित बालबालिकाहरुको लागि द्वन्द्वमा असंलग्न हुने अधिकार,

५. राजनैतिक आन्दोलन गर्ने अधिकार,

६. देशको कुनै भागमा सुरक्षा खोज्ने, आफ्नो देश छाड्ने वा अन्य कुनै देशमा शरण खोज्ने अधिकार,

७. पारिवारिक जीवनको आदर गरिनु पर्ने अधिकार, पुर्नमिलनको अधिकार,

८. उच्चस्तरको जीवन यापन गर्न पाउने अधिकार,

९. स्वास्थ्य तथा चिकित्सकीय सेवाको अधिकार,
१०. व्यक्तिको रूपमा मान्यता पाउने अधिकार,
११. सम्पत्तिको अधिकार,
१२. धार्मिक स्वतन्त्रता, रोजगारी खोज्ने स्वतन्त्रता,
१३. शिक्षाको अधिकार
६. न्यायको बाधक दण्डहीनता

कानुनी राज्य, कानूनको शासन र मानव अधिकारको प्रत्याभूतिका सन्दर्भमा बहुदो दण्डमुक्ति भयावह प्रघटना हो । मानवता विरुद्धको अपराधउन्मूलन दण्डहीनताविरुद्धको संघर्षतर्फ केन्द्रित छ । निरंकुशताबाट प्रजातन्त्रतर्फ उन्मुख आन्दोलन वा सशस्त्र संघर्षको दौरानमा गम्भीर रूपमा मानव अधिकार उल्लंघन हुन्छ । अन्तर्राष्ट्रिय मानव अधिकार कानूनअनुसार मानव अधिकार उल्लंघनका कार्यहरुजस्तो सुकै अवस्थामा गरिए पनि अपराध नै हुन् । तसर्थ मानव अधिकार उल्लंघनकारीहरुमाथि जुन रूपमा भए पनि दण्डीत गर्नुपर्छ । त्यसमा पनि हत्या, बलात्कार, यातना, वेपत्ता पार्ने कार्यका दोषीहरुलाई कहिल्यै पनि क्षमा दिन सकिदैन । मानवअधिकार उल्लंघनकारीहरुलाई सरकारले विभिन्न वहानामा कारवाही/दण्डीत नगर्ने हो भने मानव अधिकार संरक्षणमा राज्यको दायित्व तथा अन्तर्राष्ट्रिय कानूनको उद्देश्य नै खण्डित हुन पुग्दछ । यस्तो अवस्थामा अधिनायकवादी तत्व हावी हुन्छ । राज्यले अत्यधिक स्वेच्छाचारी बल प्रयोग गर्छ र कानूनको शासन धरासायी बन्छ ।

नेपालको सन्दर्भमा दण्डहीनता विगत २३७ वर्षदेखिको अर्धसामन्ती सामाजिक संरचना Semi feudal social structure र अधिनायकवादी शासन Authoritarian rule को उपज हो । यद्यपि, २०४७ सालको फराकिलो प्रजातान्त्रिक संवैधानिक व्यवस्थाले कानुनी शासन र मानव अधिकारको प्रत्याभूति प्रति वृहत् प्रतिबद्धता जाहेर गरेको थियो । तर मल्लिक आयोगको प्रतिवेदन २०४७ उपर तत्कालीन सरकारले कारवाही गर्न नसक्नु ठूलो कमजोरी थियो । सन् १९९६ बाट सुरु भएको माओवादी विद्रोहले दण्डहीनताका साथ व्यापक मात्रामा मानव अधिकार उल्लंघनका लागि उर्जा प्राप्त गर्‍यो । माघ १९ पछि द्वन्द्व र सैनिकीकरण हिंसाको निरन्तरता बन्यो । नेपालमा बहुदोरुपमा देखा परेका मानवअधिकार उल्लंघनका घटनाहरुलाई राज्य सैनिकीकरण उन्मुखको रूपमा हेर्नुपर्छ । यो पुरै श्रृङ्खलामा सैन्य खर्चमा नाटकीय वृद्धि भयो । मानवअधिकारसम्बन्धी मुद्दामाथि संकुचित ढंगबाट परिभाषित “सुरक्षा” को एजेण्डा हावी भयो । र, यही प्रकृयाबाट सुरक्षाफौजले मानवता विरुद्धका जघन्य अपराधमा दण्डमुक्ति पाउँदै आए । दण्डहीनता यथार्थमा न्यायका निम्ति बाधक छ । यसले शान्ति, सहिष्णुता र आम नेपालीको जिवीकाको सवाललाई नै कठिन मोडमा पुऱ्यायो । नेपालमा दण्डहीनता संस्कारका रूपमा विकसित भयो । दण्डहीनताको समस्याको मात्राका कयौं तह छन् । गम्भीररूपमा मानवअधिकार उल्लंघन अपराधको पृष्ठभूमिमा दण्डहीनताको समस्या मौलाएको छ । संक्षेपमा दण्डहीनताको समस्या र यसको सन्दर्भलाई निम्न तीन आयामबाट विश्लेषण गरिनुपर्छ-

क) राजनीतिक सन्दर्भमा समस्याको मात्रा- ०४६ सालको जनआन्दोलनपछि जननिर्वाचित सरकारहरुले कानूनको शासन र मानवअधिकारको प्रत्याभूति दिलाउन असफल रहे । सन् १९९० पछिका सरकारले राजनैतिक विचारधाराको आधारमा धेरै दण्डीत गरिनुपर्ने अपराधका दोषीहरुका मुद्दालाई फिर्ता लिए । प्रजातान्त्रिक सरकारहरुले अपराध र अपराधीलाई निरुत्साहित गरी स्वच्छ प्रजातान्त्रिक वातावरणमा कानूनको सर्वोच्चतालाई कार्यान्वयन गर्नु पर्दथ्यो । तर, राजनीतिक नेतृत्वले आपराधिक गतिविधिविरुद्ध संघर्ष गर्नुको सट्टा पैसा, बल र संगठित अपराधलाई राजनीतिमा प्रोत्साहित गरे । “राजनीतिको अपराधीकरण” नेपालमा मानवअधिकारको मुख्य मुद्दा बन्यो । राजनैतिक दलहरुले सत्तामा आफ्नो नियन्त्रण राख्न र अपराध लुकाउन अपराधीलाई राजनैतिक संरक्षण दिए । राजनीतिज्ञले सार्वजनिक स्रोतमाथि जनताको अधिकार उल्लंघन गर्दै सार्वजनिक कोषको दुरुपयोग गर्न पुगे । सत्ता संघर्षका कारण राजनीतिकदल, सुरक्षा अधिकारी र राजदरवारमा

समेत दण्डहीनताले गहिरो प्रभाव पायो । २०४७ को फराकिलो संवैधानिक दायरा र प्रजातान्त्रिक सरकारहरूले सीमान्तकृत समुदायका समस्यालाई सम्बोधन गर्न सकेनन् । उच्चतहमा मानवअधिकारको प्रत्याभूतिका साथ समावेशी राज्य प्रकृत्याले गति लिन सकेन । नागरिक सर्वोच्चताको प्रत्याभूति भएन । न त शक्ति पृथकीकरणको अवधारणा अनुसार राज्यका निकायहरू नै क्रियाशील भए ।

अन्ततः जनआन्दोलन भाग-२ ले नयाँ राजनीतिक अध्यायको चरणमा हामीलाई प्रवेश गरायो । जनताको संगठित शक्तिका अगाडि राजाको शासकीय शैलीले घुँडा टेक्यो । राजनीतिक उतार-चढावको आडमा शाही सरकारले व्यापक रूपमा गैरकानुनी हत्या, यातना, वेपत्ता, बलात्कार जस्ता मानवता विरोधी अपराधहरू गर्न दण्डहीनताकासाथ सुरक्षा फौजलाई छुट दियो ।

ख) कानून कार्यान्वयनका सन्दर्भमा समस्याको मात्रा- कानून कार्यान्वयनको अभावमा रहेको समस्याको मात्राले दण्डहीनतालाई उर्जा प्रदान गर्‍यो र विगतको संवैधानिक तथा कानुनी दायरा दण्डहीनताको मुद्दालाई सम्बोधन गर्न अपूर्ण थियो । कानुनी सर्वोच्चता र कानुनी दायराको अभावमा नै मल्लिक आयोगको प्रतिवेदनमाथि कारवाही चलाउन सकिएन र रायमाभी आयोग प्रतिवेदनको पनि यस्तै हविगत हुने प्रायः निश्चित छ ।

नेपालको संविधान ०४७ र नेपालले अनुमोदन गरेका १९ वटा अन्तर्राष्ट्रिय मानवअधिकार कानूनहरूले मानवअधिकारको प्रत्याभूतिका लागि वृहत् प्रतिबद्धता व्यक्त गरेको थियो । यद्यपि यी प्रत्याभूतिको कार्यान्वयन हुनसकेन । यसको मुख्य कारण दण्डहीनता हो । अर्कोतर्फ संविधानद्वारा प्रदत्त मौलिक अधिकार र नेपालले अनुमोदन गरेका मानवअधिकारका अन्तर्राष्ट्रिय दस्तावेजसँग बाझिने खालका धेरै कानूनहरू विद्यमान थिए । यस्तो अपूर्ण कानुनी दायराले फौजदारी न्याय प्रणालीका अङ्गलाई स्वेच्छाचारी बनायो । र, यसैको आडमा सुरक्षा अधिकारीले मनोमानी बल प्रयोग गरे । सर्वोच्च अदालतले दिएका आदेशहरूलाई सुरक्षा निकायले नमानेका धेरै उदाहरण छन् । कानुनी दायराले नै नेपालमा मानवअधिकार उल्लंघन र दण्डहीनतालाई परोक्षरूपमा टेवा पुऱ्याए । कानून लागू गर्ने अधिकारी तथा निकायले पालना गर्नुपर्ने मानवअधिकार सम्बन्धी अन्तर्राष्ट्रिय मापदण्डको पालना गरेको पाइदैन । अधिकांश फौजदारी कानूनको संशोधन र विगत दशवर्षमा भएका मानवअधिकार उल्लंघन अपराधका दोषीलाई कारवाही गर्नुपर्ने आवश्यकता हाम्रो सामु छ । यो दोहोरो आवश्यकतालाई पूरा गर्न अन्तर्राष्ट्रिय फौजदारी न्यायप्रणाली र नेपालले अनुमोदन गरेको अन्तर्राष्ट्रिय मानवीय कानूनको कानुनी दायरालाई इन्कार गर्न सकिँदैन । त्यसैले समग्र फौजदारी न्यायप्रणालीसँग सम्बन्धित कानूनहरूको सुधारको आवश्यकतालाई पुरा गर्न र मानवताविरुद्धको अपराध गर्ने दोषीहरूलाई कारवाही चलाउनु पीडितहरूको न्यायको प्रत्याभूतिका लागि पूर्व सर्त हो ।

ग) विद्रोही सन्दर्भमा समस्याको मात्रा- विद्रोही समूहलाई अंकुश लगाउन नसकेसम्म दण्डहीनताको समस्याको मात्रा राज्यमा विद्यमान रहन्छ । दण्डहीनताको समस्या रहेसम्म पीडितहरूको अधिकार रक्षामा कठिनाई हुन्छ । द्वन्द्व समाप्त भएपश्चात्को अवस्थामा राजनीतिक सम्भौतामा पुग्न सशस्त्र समूहको विघठन राजनीतिक प्राथमिकता बन्नेगर्छ । विद्रोही समूह र उनिहरूका सदस्यका विरुद्धमा आएका उजुरीहरूको उचित छानबिन नभएमा दण्डहीनताको वातावरण कायमै रही पीडितहरूलाई अन्याय पर्ने खतरा रहन्छ । ज्यादती गर्ने अपराधीहरूले शक्ति वा प्रभाव जमाउने पद धारण गर्नसक्छन् र विशेषगरी कानूनको कार्यान्वयन निकायमा समाहित भएमा हतियार बोक्ने र बल प्रयोग गर्नसक्ने अनुमति प्राप्त गर्नसक्छन् । यस्तो स्थितिमा मानवअधिकार उल्लंघन जारी रहन सक्छ । पीडित पक्षका अधिकार र पुर्नस्थापनका मुद्दा किनारामा पर्न सक्छन् । अतः पीडितहरूको न्याय र जिवीकाका लागि राज्यले प्रभावकारी संयन्त्रको निर्माण गर्नु पर्छ ।

७. उत्तरदायित्व र जिम्मेवारी वहनको एकिनमा कठिन

विगतमा सरकार तथा माओवादीले पटक-पटक मानवीय कानूनको पालनाप्रति फराकिलो प्रतिबद्धता जारी गरेको भएतापनि उनीहरूले असंख्य मात्रामा यस्ता प्रतिबद्धताको उल्लंघन गर्दै आए । चाहे त्यो संदिग्ध माओवादीको आरोपमा होस् या कथित सुराकीको बहानामा । दुवै पक्षले हजारौंको संख्यामा

गैरन्यायिक हत्याहरु गरे । सुरक्षा नेतृत्वले अधिकांश गैरकानुनी हत्याहरुलाई युद्धको संयोग र अपवादको रूपमा दावी गर्‍यो । उसले ट्याक्सी ड्राइभरको हत्या र अबोध बालिकामाथि बलात्कारका घटनालाई सुरक्षा फौजको कार्वाहीको परिभाषाभित्र राख्यो । अर्कातर्फ माओवादीले कथित जनयुद्धका सत्रुको सफायाको नीतिभित्र परिवारका सबै सदस्यलाई आगो लगाएर मार्ने कार्य गरे । गैर कानुनी जनअदालतका फैसलाहरुको कार्यान्वयनको बाहानामा निर्दोष नागरिकहरुलाई निर्मम यातना दिएर मारियो । यी दुवै पक्षका तर्क र कथित कार्वाहीका विधिहरु मानवताविरुद्धको अक्षम्य अपराध हुन् । यस्ता अपराधलाई अन्तर्राष्ट्रिय मानवीय कानूनका अलावा राष्ट्रिय फौजदारी कानूनले पनि निषेध गरेको छ ।

यस्ता मानवता विरुद्धका अपराधलाई स्पष्ट रूपमा द्वन्द्वरत पक्षको नेतृत्वले जिम्मेवारी लिनुपर्छ । यो जिम्मेवारी चैनअफ कमाण्डको आधारमा निर्धारण गरिने भए तापनि त्यस भित्र को दोषी थिए र कसलाई न्याय प्रक्रिया भित्र ल्याउने भन्ने सवाल मुख्य एकिकनको विषय हो । दोषीहरुको एकिकनका साथसाथै उनीहरुको अपराधका लागि जिम्मेवारी वहन गराउने कार्य एकातिर कठिन छ भने अर्कोतर्फ वास्तविक पीडितहरुको पहिचान पनि कठिन छ । दोषी र पीडितको जुनसुकै परिस्थितिमा पनि एकिकन गरिनुपर्छ । जिम्मेवारी वहन गराउदै पीडितहरुको अधिकार र न्यायलाई प्रत्याभूत गरिनुपर्छ । मानवता विरुद्धका अपराधी सुरक्षा, सरकार र विद्रोही प्रमुखले सधैं न्यायिक प्रक्रियाबाट मुक्त वा भाग्न पाउने छैनन् । यसैलाई राष्ट्रसंघीय मानवअधिकार उच्च आयुक्त लुइस आर्वरले जोड दिँदै भनेकी छिन्- 'द्वन्द्वरत जुनसुकै पक्षले अन्तर्राष्ट्रिय कानून उल्लंघन गरेको भए पनि तिनलाई जवाफदेही बनाउनुपर्दछ । पीडकहरुलाई मात्र नभई फौजको नेतृत्व गर्नेहरुलाई पनि न्यायालयसमक्ष व्यक्तिगत फौजदारी उत्तरदायित्व अन्तर्गत उभ्याउनुपर्दछ ।'

८. द्वन्द्व पछिको सापेक्ष समय

विगत ११ वर्षदेखि जारी रहेको सशस्त्र द्वन्द्व र अवरुद्ध प्रजातान्त्रिक प्रणालीलाई सात राजनीतिक पार्टी र माओवादी बीच भएको १२ बुँदे सम्झदारीले निर्णायक मोडमा पुऱ्याउन कोसे ढुंगाको काम गर्‍यो । परिणामस्वरूप जनआन्दोलन भाग २ सम्भव भयो । १९ दिन लामो जनआन्दोलनका बलमा पुनर्स्थापित प्रतिनिधिसभा र प्रतिनिधिसभाको घोषणा २०६३ ले मुलुकको अग्रगमनको मार्गचित्रलाई प्रस्तुत गरिसकेको छ । माओवादी र सरकारबीच सम्पन्न शान्तिवार्ताहरुले सफलताका संकेत देखाउँदै छन् । मुलुकमा अब ढीलो चाँडो निश्चितरूपमा शान्ति स्थापना हुन्छ नै । यो शान्ति प्रक्रियासँगसँगै विगतका मानवअधिकार उल्लंघनका घटनाहरुको छानविन, दोषीलाई कार्वाही र पीडित पक्षलाई न्याय दिलाउनु पर्ने अहम् प्रश्न हाम्रो सामु आएको छ । यो परिवर्तित राजनीतिक सन्दर्भमा विगतमा भएका मानवअधिकार उल्लंघन र मानवताविरुद्धका अपराधीहरुलाई सकेसम्म विशेष किसिमले सम्बोधन गर्नुपर्नेहुन्छ । द्वन्द्वका कारण ज्यान गुमाएका पीडित परिवारहरु र आन्तरिकरूपमा विस्थापितहरुको सामाजिकीकरणको मुद्दाले प्राथमिकता पाउनुपर्छ । द्वन्द्वले पीडित नागरिकहरुको आधारभूत जिवीकामा पारेको जोखिमतालाई न्यूनिकरण गर्दै समाजमा पुनर्स्थापन अहिलेको प्रमुख मुद्दा र आवश्यकताको विषयवस्तु हो । यसका साथसाथै संक्रमणकालीन न्यायको प्रवन्ध पनि मुख्य चुनौति हो । यद्यपि, द्वन्द्व पीडितहरु सहित आन्तरिक विस्थापितहरुको जिवीकाको सवाल र न्यायमाथिको पहुँचलाई सुनिश्चित गर्नेतर्फ सरकार, अन्तर्राष्ट्रिय दातृ निकाय र नागरिक समाजले गम्भीर रूपमा पहल सुरु गर्नुपर्छ ।

९. द्वन्द्व पीडितहरुको जिवीका र न्यायमाथि पहुँच

जिवीका र न्याय भट्ट हेर्दा अलग अलग विषयवस्तु जस्ता देखिएतापनि एक अर्कामा परिपूरक छन् । विशेष गरी कुनै एकको अभावमा दुवै अपूर्ण रहन्छन् । अझ, द्वन्द्वबाट गुज्रिएको मुलुकका हकमा यी दुवै कुराहरु आधारभूत प्राथमिकताका सूचीमा पर्दछन् । द्वन्द्वका कारण दैनिक जिवीकाको सवाल एकातिर संकटमा पर्दछ भने न्यायको अभावले मानवीय मर्यादालाई चुनौति दिइरहन्छ । अतः यस्तो स्थितिमा द्वन्द्व पीडितहरुको जिवीका र न्यायमाथिको पहुँचलाई सुनिश्चित गर्नेतर्फ के-कस्ता कार्य गर्न सकिन्छ भन्ने कुराहरुलाई छलफलका लागि यहाँ प्रस्तुत गरिएको छ ।

क) **द्वन्द्व पीडित तथा आन्तरिक विस्थापितहरूको प्रमाणीकरण** : द्वन्द्वपछि पीडित तथा आन्तरिक विस्थापितहरूको पुनः सामाजिकीकरणका लागि उनीहरूको पहिचान गर्नुपर्छ । पहिचानका साथै प्रमाणीकरण गरी निस्सासमेत दिन सकियो भने उनीहरूलाई जिवीका र न्यायका लागि सहयोग गर्न सजिलो हुन्छ । यसका लागि हामीले सर्वपक्षीय प्रमाणीकरण समिति बनाएर तत्काल काम थाल्नुपर्छ । यस्तो प्रमाणीकरण समिति/कार्यदलले पीडितहरूलाई प्रमाणपत्र दिने र प्रमाणीकरण गर्ने कार्य गर्न सक्नुपर्छ ।

ख) **विशेष कार्यक्रम तथा नीतिहरूको तर्जुमा** : द्वन्द्वका कारण पीडित तथा विस्थापित भएकाहरूको जिवीकाको सुनिश्चितताका लागि सरकारले विशेष कार्यक्रम तथा नीतिहरूको तर्जुमा गर्नुपर्छ । विस्थापितहरूका लागि घर फर्कने सहज वातावरण तयार हुनुपर्छ । यसका लागि माओवादीहरूले पनि लचिलो नीति र उदार व्यवहार देखाउनुपर्छ । विस्थापित भएका व्यक्तिहरूलाई आ-आफ्नो घर फर्किएर सम्मानपूर्वक पुनर्स्थापित हुने कार्यमा सहयोग पुर्याउने कार्यक्रमहरू अघि बढाइनुपर्छ । सरकारले द्वन्द्व पीडितहरूकै लागि आयआर्जन, रोजगारी, सीप विकासजस्ता कार्यक्रमहरूको तर्जुमा गरी छिटो भन्दा छिटो लागू गर्नुपर्छ । स्वास्थ्य तथा परामर्श सेवा सुरु गर्नुपर्छ । द्वन्द्वका कारण घाइते भएकाहरूको खोजी गरी उपचारको प्रवन्ध मिलाउनुपर्छ ।

ग) **न्याय प्रक्रियामा ल्याउने**- द्वन्द्वका कारण हत्या, यातना, बलात्कार, वेपत्ता आदि मानवता विरुद्धका अपराधबाट पीडित भएकाहरूले सर्वसुलभरूपमा राज्यसँग न्याय माग्ने अभ्यास गर्न पाउनुपर्छ । त्यस्ता पीडित परिवारहरूले पीडकहरू विरुद्ध कारवाहीका लागि सहजै न्यायालयसमक्ष पहुच पुर्याउन सरकारले उचित प्रवन्ध मिलाउनुपर्छ । अपराधीका विरुद्ध न्यायको ढोकासम्म पुग्न सरकारले निःशुल्क कानुनी परामर्श र सेवाहरू उपलब्ध गराउने नीति तथा संयन्त्रहरूको निर्माण गर्नुपर्छ ।

घ) **कानुनी प्रत्याभूति** : पीडितहरूको अधिकारको संरक्षण र संवर्धनका लागि एउटा छुट्टै विशेष कानूनको तर्जुमा गरिनुपर्छ । जसले सशस्त्र द्वन्द्वका कारण वा मानवअधिकार उल्लंघन अपराधका कारण पीडित बनेका परिवारहरूको न्यायलाई सुनिश्चित गर्न सकोस् । अर्कोतर्फ आन्तरिक विस्थापितहरूको पुनर्स्थापनका लागि पनि विशेष नीति नियमहरूको तर्जुमा गरिनुपर्दछ ।

१०. निष्कर्ष

हामी अहिले मुलुकले शान्तिपूर्ण राजनीतिक विकास पाउने संघारमा छौं । निश्चितरूपमा सशस्त्र द्वन्द्वले दिगो विकास पाई मुलुकमा शान्ति स्थापना हुनेछ । शान्तिसँगसँगै द्वन्द्वको पीडामा उपचार खोज्ने कार्य पनि हाम्रो सामु छ । शान्तिसँगै आन्तरिक विस्थापित र द्वन्द्व पीडितहरूको व्यथालाई हामीले भुल्न सक्दैनौं । त्यसैले द्वन्द्व पीडितहरूको न्याय र जिवीकाको सवाललाई सशक्तरूपमा सम्बोधन गर्ने काम गर्नुपर्छ । यिनै सन्दर्भमा पीडितहरूको जिवीका र न्यायका लागि राज्यले तत्काल प्राथमिकताका साथ विशेष कदमहरू सुरु गर्नुपर्दछ र त्यसका लागि के कस्ता कार्य र नीतिहरूको तर्जुमा गर्न सकिन्छ भन्ने कुराको वहस चलाउनु अहिलेको प्रमुख सवाल हो । अन्त्यमा, विज्ञहरूसँग छलफलका लागि केही एजेण्डाहरू उल्लेख गरिएको छ :-

१. द्वन्द्व पीडितहरूलाई प्रमाणीकरण गरी परिचयपत्र कसरी दिने र यो कार्य आवश्यक छ-कि छैन ?
२. दण्डपीडितहरूको जिवीकालाई टेवा पुर्याउने खालका क्रियाकलाप र नीतिहरू के हुन सक्तछन् ?
३. मानवअधिकार अपराधमा संलग्न दोषी र द्वन्द्वपीडितहरूको न्यायको सवाललाई कसरी न्याय प्रक्रियाभित्र ल्याउने ?

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Liberalization, poverty, development policy and alternate

उदारीकरण, गरिबी, विकास नीति र विकल्प

(A study paper in Nepali language by Advocate Raj Kumar Siwakoti)

१. विषय प्रवेश

विश्वव्यापीकरण प्रतिस्पर्धात्मक अवधारणा हो । यसले नव उदारवादी ढाँचाको पूँजी र स्वतन्त्र व्यापारलाई जोडदार प्रवर्द्धन गर्छ । व्यापार, पूँजीको परिचालन, निर्बाध नाफा र आर्थिक प्रतिस्पर्धाका बीच निरन्तर रूपले तनाव सृजना गर्छ । जसले मानव अधिकारको आधारभूत सिद्धान्तसँग प्रत्यक्ष द्वन्द्व ल्याउँछ । असीको दशक यता तेश्रो विश्वका राष्ट्रहरूमा यो द्वन्द्व तिब्र भयो । नव उदारवादी आर्थिक नमूनामा आधारित निजीकरण र उदारीकरणका रणनीति जति अधि बढे त्यति नै मानव अधिकारका सिद्धान्तहरू जोखिममा परे ।

विश्वका सरकारहरूले सन् ९० को दशकपछि वस्तु तथा सेवा प्रदानको मात्रामा राज्यको उत्तरदायित्वलाई घटाए । आन्तरिक उदारीकरण र निजीकरण गर्ने व्यापक नीतिहरू लादिएपछि विश्वव्यापीकरणको प्रकृया व्यापक भयो । जसले समाज र राज्यमा व्यापक असमानता र स्तरीकरणलाई जन्मायो । परिणामस्वरूप तेश्रो विश्वको सम्पूर्ण अर्थतन्त्रमा आय असमानताहरू देखापरे । रोजगारी सिर्जनाको अवस्था घटी गरिवी बढ्यो । रोजगारीको गुणस्तरमा ह्रास र श्रमको बढ्दो अनौपचारिकरण भयो । सीमान्तकृत समुदायहरू बढ्दो कष्ट र जोखिमतिर धकेलिए । राज्यले खाद्यान्न, कृषि, शिक्षा, स्वास्थ्य, गरिवी उन्मुलन, रोजगारी सृजना जस्ता सामाजिक क्षेत्रको अनुदानमा हदैसम्म कटौती गर्‍यो । हस्तकला र घरेलु उद्योगहरू धरासायी भए । साभ्ना सम्पत्तिका स्रोतहरू माथि समुदायको अधिकार खोसियो । बजारमुखी र नाफामुखी परिवर्तनले जोखिमता बढायो । वास्तवमा यो फराकिलो र प्रतिस्पर्धी आर्थिक प्रकृया पनि थियो । तर यो प्रकृत्यामा ग्रामीण अर्थतन्त्रको एकीकरण र प्रतिस्पर्धा सम्भव थिएन । यसरी विश्वव्यापीकरणको प्रकृत्याले बहुशक्ति केन्द्र र असमान अर्थतन्त्रको सृजना गर्‍यो ।

सन् असीको दशकमा मुद्राकोष र विश्वबैंकको संरचनागत समायोजन कार्यक्रमका (संसका) नीतिहरू मार्फत उदारीकरणको लहर विश्वमा फैलियो । मुद्रा कोष र विश्व बैंकले यस मार्फत अतिकम विकसित देशमा धेरै ऋण लगानी गरे । यसले कृषि क्षेत्र र कृषि बजारमा राज्यको भूमिकालाई हदैसम्म नियन्त्रण गर्‍यो । राज्यले कृषि क्षेत्रलाई दिने सहूलियतको कटौती र कृषि उत्पादनको अन्तर्राष्ट्रिय व्यापारलाई सरलीकरण गर्ने दवावहरू लादिए । १९९५ मा डब्लुटिओको स्थापनापछि उदारीकरणले अभ बढी कृषि क्षेत्रलाई आक्रमण गर्‍यो । कृषि नीतिहरू जीविकाको अलावा उत्पादन र व्यापार बढाउने कदमतिर केन्द्रित भए । उदारीकरणको जातोमा कृषि क्षेत्र पिसिन पुग्यो ।

२. विकासका ढाँचा र अभ्यास

विकासको आधुनिकीकरण सिद्धान्तलाई सन् १९५०-६० सम्म अवलम्बन गरियो । यसमा विकास तलबाट माथि जाने प्रक्रियामा आधारित थियो । यसको मुख्य लक्ष्य आर्थिक वृद्धिबाट आर्थिक विकास गर्ने थियो । सन् १९७० मा यसले परनिर्भरता बढाई तेश्रो विश्वका देशहरूको अवस्थामा सुधार ल्याउन नसकेको ठहर गरियो । यो सिद्धान्त पश्चिमीहरूको बजार र लुप्त उपनिवेशवाद विस्तार गर्ने चाल हो भनी तीब्र रूपमा आलोचित भयो । त्यसपछि नवमार्क्सवादीहरूले परनिर्भरताको सिद्धान्तलाई अगाडि बढाए । विकासको परनिर्भरताको सिद्धान्तले १९७० को दशकमा फरक मत राखेर आउ“दा निकै लोकप्रियता पायो । यस सिद्धान्त अन्तर्गत नवमार्क्सवादीहरूले गरिब राष्ट्रलाई भू-उपग्रह र धनी देशहरूलाई केन्द्र (मुख्य सहर) का रूपमा राखी केन्द्रले भू-उपग्रहमाथि कसरी शोषण गरेको छ भन्ने स्पष्ट देखाई दिए । यसको मुख्य लक्ष्य स्थानीय स्वउत्पादन प्रणालीको अनिवार्यतालाई जोड दि“दै पू“जीको सिर्जना, बचत र लगानीलाई प्रोत्साहित गर्नु थियो । तर, यो सिद्धान्त पू“जीवादी उत्पादन

प्रणालीको आलोचना गर्नमा नै केन्द्रीत भएको आरोप लागेपछि विकासको विश्व व्यवस्था सिद्धान्तको जन्म भयो ।

सन् १९७० को दशकबाट अघि बढेको यस अवधारणाका मुख्य विषय वस्तु विश्व पू“जीवादी उत्पादन प्रणाली, त्यसको विकासक्रम र प्रभाव थियो । जसले राज्यहरूको स्तरीकरण र यसबाट सिर्जित असमानतालाई अध्ययन गर्‍यो । राज्यहरूलाई विश्वमा आर्थिक सम्पन्नताका आधारमा केन्द्र, अर्धपृष्ठ क्षेत्र र पृष्ठ क्षेत्रमा राखेर विश्लेषण गरियो । केन्द्रले अर्धपृष्ठ क्षेत्र र अर्धपृष्ठ क्षेत्रले पृष्ठ क्षेत्रमा शोषण गरेको पाइयो । केन्द्र क्षेत्रमा अमेरिका, जापान, अर्धपृष्ठ क्षेत्रमा कोरिया, ताइवान र पृष्ठ क्षेत्रमा विकासोन्मुख मुलुकहरू नेपाल, दक्षिण अफ्रिका रहेका छन् । समाज र संस्कृतिको व्याख्या र विश्लेषण गर्न अगाडिका सिद्धान्तहरू असफल भएपछि यो सिद्धान्त आएको थियो । यस सिद्धान्तले अगाडिका प्रक्रिया र अवधारणाले धनी देशलाई धनी बनाउने र गरिब राष्ट्रहरूमा कुनै रूपान्तरण ल्याउन नसकेको अवस्थामा न्यायोचित वितरण र समान उपभोगलाई मुख्य मुद्दा बनाएको थियो । विकासको विश्व व्यवस्थाको बृहत् सिद्धान्तले तेस्रो विश्वको विकासका लागि उनीहरूको स्थानीय स्रोत, साधन र प्रविधिलाई परिचालन गर्न जोड दिन्छ । यसले धनी देश र गरिब देशबीचका असमानता र शोषणका कारणहरूलाई केलाएको छ । यस सिद्धान्तले पू“जीवादको उत्पत्ति, विकास र बिस्तारले तेस्रो विश्वमा पारेको प्रभावका बारेमा विस्तृत र विश्लेषणात्मक अध्ययन गराउ“दछ । यो सिद्धान्त पनि स्थानीय जनताहरूको सीप, ज्ञान, क्षमतालाई विकास परियोजनाहरूमा समावेश गराउन असफल भएकाले आलोचित भयो । पछि विकासको लक्ष्य जनतामा केन्द्रीत हुनुपर्छ भन्ने अवधारणालाई अगाडि सारियो । ‘जनतालाई अगाडि राख’, ‘अन्त्यकोलाई अगाडि राख’, र ‘जनतालाई सुन’, जस्ता मन्त्रकासाथ जनकेन्द्रीत विकासको सिद्धान्त आयो । यो सिद्धान्त तलबाट माथि जाने अवधारणामा आधारित छ । विश्वव्यापी रूपमा सोच र स्थानीय तहमा कार्य गर भन्ने मान्यतामा यो सिद्धान्त अगाडि बढेको छ । यस सिद्धान्तले विकास प्रक्रियाका सम्पूर्ण चरणहरूमा जनतालाई सहभागी गराउन जोड दिन्छ । यसले जनताका आधारभूत सरोकारका क्षेत्र उनीहरूको सहभागीतामूलक क्रियाकलापबाट लक्ष्यमा पुगनुपर्ने तर्कलाई अगाडि सार्दछ । विकासका सम्पूर्ण क्रियाकलापहरूमा जनतालाई केन्द्रीत गरिन्छ । स्थानीयतहका जनताहरूको सक्रियतामा विकासका कार्यहरूलाई सम्पन्न गरिन्छ र विकासको उपभोग र वितरणका मालिक जनताहरूनै हुने भन्ने आत्माबोध गराइन्छ । यो विकासको सिद्धान्तले पनि भूमण्डलीकरणको प्रक्रिया र स्थानीय समाजमा परेको बाह्य प्रभावको कारण सर्वमान्य मान्न सकिदैन भनी आलोचित भयो । स्थानीय स्रोत र सो आधारमा स्थानिय जनता विकास र त्यसको प्रतिफलका मालिक हुन् तर विकासका सम्पूर्ण प्रकृया र तरिकालाई उनीहरूको क्षमताले धान्न सक्दैन । त्यसैले उनीहरूको क्षमता विकास गर्नु आवश्यक छ । जसका लागि बाह्य आर्थिक तथा प्राविधिक सहयोग आवश्यक पर्दछ । र, यो सिद्धान्तअनुसार कार्यगर्दा पनि समाजका अभिजात्य वर्ग कै मुख्य भूमिका हुने हदा जनताको भन्दा उनीहरूकै बढी विकास भएको देखिन्छ । दोस्रो विश्व युद्धपछि विकासका विभिन्न सिद्धान्तहरू अवलम्बन गरि“दा पनि गरिबी भन्नुभन्नु बढ्नको मुख्य कारण पनि यही हो ।

सन् १९९० पछि विकासको नयाँ अवधारणा मानव विकास सुरु भयो । संयुक्त राष्ट्र संघीय विकास कार्यक्रमद्वारा अघि सारिएको विकासको यो सिद्धान्त मानव विकासको अन्तिम व्याख्या भने होइन । तर यो अवधारणाले आर्थिक बृद्धिलाई विकास ठान्दैन । यसले गुणात्मक सूचकका आधारका सामाजिक स्वाधीनता र आत्मनिर्णय शान्ति, आत्मनिर्भरता, सामाजिक सुरक्षा र मानव अधिकारलाई मानव विकासका गुणात्मक सूचक मानिन्छ । यो विकासका सिद्धान्तले मानव अधिकारका सिद्धान्त अनुसार अन्तर्निहित सम्पूर्ण मापदण्डहरूलाई विकासका मापकका रूपमा समावेश गर्ने प्रयास गरेको छ । तथापी विश्वमा मानव विकास प्रतिवेदन अनुसार मानव विकासको स्तरलाई उच्चरूपमा प्राप्त गर्ने नर्वे, स्वीजरल्याण्ड, जापान आदि न्यून देशहरू मात्र छन् ।

सन् १९६९ मा संयुक्त राष्ट्रसंघको महासभाले सामाजिक उन्नति एवं विकास सम्बन्धी घोषणा जारी गर्‍यो र यसबाट विकासको केन्द्र मानवलाई ठानियो । जसअनुसार विकासका योजनाहरूको तर्जुमा र

कार्यान्वयनमा समाजका सबै पक्षको सहभागितामा जोड दिन थालियो । विकासको अन्तिम लक्ष्य भनेको सम्पूर्ण जनताको निरन्तर समृद्धि र सृजित फाइदाहरुको समानुपातिक वितरणमा तिनको पूर्ण सहभागिता हो भनेर विकास सम्बन्धी नयाँ अवधारणाको जन्म भयो र यसैको प्रतिफल विकास गर्न पाउनु मानव अधिकारका रूपमा स्थापित भयो । जसलाई सन् १९६९ मा मानव अधिकार सम्बन्धी आयोगले अनुमोदन गर्‍यो । १९८६ मा संयुक्त राष्ट्रसंघको साधारण सभाको प्रस्ताव नं ४१/१२८ द्वारा विकासको अधिकार सम्बन्धी घोषणापत्र ग्रहण गरी विकास गर्ने अधिकारलाई सुनिश्चित गरियो । विकासप्रतिको अधिकार मानव अधिकारबाट अभिच्छेद छ । जसको कारणले प्रत्येक व्यक्ति तथा सम्पूर्ण जनजाति आर्थिक, सामाजिक, साँस्कृतिक र राजनीतिक विकासमा सहभागी हुने, योगदान गर्ने र तिनलाई उपयोग गर्न पाउनेछन् जसले सम्पूर्ण मानव अधिकार र आधारभूत स्वतन्त्रताको पूर्णप्राप्तिलाई समेत जनाउँछ । जनजातिको प्राकृतिक सम्पत्ति र स्रोत माथि पूर्ण सार्वभौमिकत्वको अभ्यास गर्ने अधिकार हुन्छ । व्यक्ति नै विकासको मुख्य विषय हो र विकास सम्बन्धी अधिकारको सक्रिय सहभागी र फल उपभोक्ता व्यक्ति नै हुनुपर्दछ । यो नै मानव अधिकार र विकास बीचको अन्तरनीहित सम्बन्ध हो र यी दुवैलाई एक अर्काबाट अलग गर्न सकिदैन । (विकासको अधिकार सम्बन्धी घोषणापत्र धारा १, २, ३) ।

पछिल्लो समयमा विकासको कुरा गर्दा 'दिगो विकास' र 'दिगो मानव विकास' लाई एकै साथ लिन थालिएको छ । दिगो विकासको अवधारणाले प्राप्त स्रोतको उपयोग सम्बन्धी निर्णय गर्दा सम्बन्धित पक्षको सहभागिता खोज्छ । वर्तमानलाई ध्यान दिँदै प्राकृतिक स्रोतको उपयोगको निर्णय गर्दा भविष्यका पुस्ताको अधिकारलाई हनन् गर्न पाइँदैन । 'विकास कसको लागि' भन्दा 'मानवका लागि' र मानवको सहभागिता हुनु पर्ने धारणासहित 'दिगो मानव विकास' को अवधारणा र सुशासनलाई पर्यायवाची रूपमा प्रयोग गरिँदै आएको छ । (संयुक्त राष्ट्र संघीय विकास कार्यक्रम १९९६.२-३)

३. उदारीकरण, डब्लुटिओ र कृषि व्यापार

उदारीकरणले कृषि उत्पादनमा उल्लेखनीय बृद्धि र गरिवी घटाउँछ भन्ने यसका पक्षधरको तर्क छ । मुद्रा कोषले १९९८ मा गरेको एक मूल्यांकनको निष्कर्ष उदारीकरणले बाँडफाँड सम्बन्धी क्षमतामा अभिवृद्धि र आय बढाउँदछ भन्ने थियो । हो, उदारीकरणमा सरकारी सहयोगविना पनि ठूला किसानले आफ्नो व्यवसाय धान्न सक्छन् र यसले निश्चित रूपमा कृषि बजारमा उनीहरुको एकाधिकार स्थापित गर्दछ । तर यसबाट साना किसान किनारा लाग्दछन् । र, उनीहरुको गुजाराको स्रोत ध्वस्त हुन्छ । यसका दरिला प्रमाण छन् । घानाको अर्थतन्त्रमा ६५ प्रतिशत श्रम बजारलाई कृषि क्षेत्रले धानेको थियो । डब्लुटिओको जन्म हुनुभन्दा पहिले नै मुद्राकोष र विश्व बैंकका कार्यक्रमले टमाटर, धान र कुखुरा उत्पादन गर्ने साना किसानलाई राज्यले दिएको सहूलियत कटाउन भनेको थियो । अर्कोतर्फ ऋणका सर्तले घानालाई विदेशी उत्पादनका लागि आफ्नो बजार खुला गर्न बाध्य पार्यो । खुलाबजार अमेरिकी कुखुरा, युरोपेली समुदायका टमाटर र अमेरिका तथा एसियाका चामलले भरिभराउ भयो । सहूलियतको अभावमा स्थानीय कृषकले प्रतिस्पर्धात्मक क्षमता गुमाए । उपभोक्ताले स्वदेशी कृषकलाई निराश पाउँदा आयातित सस्ता वस्तु छान्ने । आज अति कम विकसित देशका कृषिजीवी घानाको जस्तै स्थितिमा पुगेका छन् । यो सत्य हो कि व्यापार विस्तार गर्दा र उदारीकरण गर्दा गरिवी निवारण हुँदैन । यसलाई सावित गर्ने जोडदार चारवटा आधार छन् ।

प्रथम अधिकाँश खाद्यान्न स्थानीय उपभोगका निमित्त उत्पादन गरिन्छ । यसको लगभग १० प्रतिशत मात्र अन्तर्राष्ट्रिय बजारमा जान्छ । साना किसानले अन्तर्राष्ट्रिय बजारमा पहुँच पुऱ्याउन सक्दैनन् र निर्यात बजार मुट्टीभर ठूला किसानको पहुँचमा सिमित रहन्छ । यथार्थमा स्रोत, संरचना, ऋण सुविधा र विदेशी बजारमा पहुँच भएको सानो समूहलाई यसले फाइदा पुऱ्याउँछ ।

दोस्रो- अतिकम विकसित देशबाट निर्यात गरिने खाद्य पदार्थलाई विकसित देशले स्वीकार्छन् भन्ने कुराको प्रत्याभूति हुँदैन । निर्यात गर्ने देशले खाद्य सुरक्षा वा प्याकेजिङ्ग जस्ता क्षेत्रहरुमा अन्तर्राष्ट्रिय मापदण्ड पूरा गर्नुपर्छ र यसैले विकसित देशका बजारमा विकाससिल देशका उत्पादन स्विकार्य हुने

नहुने कुराको निर्धारण गर्छ । अतिकम विकसित देशसँग मापदण्डमा उत्तीर्ण हुनको लागि आवश्यक पर्ने क्षमता र संरचनाको अभाव छ । जस्तो युरोपेली बजारले १३ करोड मुल्य बराबरको नेपाली महले मापदण्ड पूरा नगरेको भनेर अस्वीकार गरेको छ । यसरी, विकसित देशका मापदण्ड धेरै उच्च स्तरका छन् र यसले निर्यातलाई सिमित पार्छ ।

तेस्रो, उदारीकरणले घरेलु बजारमा आयातीत सामानको संख्या र परिमाण बढाइदिन्छ । यो परिस्थितिमा विकाससिल देशमा खाद्य असुरक्षा बढ्छ किनभने आयातीत खाद्यन्नले स्थानीय उत्पादनलाई विस्थापित गरिदिन्छ । त्यतिखेर आयातको परिणामले सबैभन्दा बढी घाटा पुऱ्याउँछ, जुनबेला विकसित राष्ट्रले कृषिमा ढंगबाट उच्च स्तरमा उत्पादन गरिरहन्छन् र बचेको उत्पादनलाई विकासशील राष्ट्रको उत्पादन लागत भन्दा कम मुल्यमा विक्री गरिदिन्छन् - यसलाई 'डम्पिङ' भनिन्छ । यस्तो अवस्थामा विकसित देशका सरकारले आफ्ना अन्तर्राष्ट्रिय निर्यातकर्ताहरूलाई निर्यात सहूलियत दिइरहँदा उनिहरूले अन्तर्राष्ट्रिय बजारमा आफ्नो पकडको प्रयोग गरेर किसानले पाउने मूल्यलाई कम गर्दै आफ्नो मुनाफा बढाउँछन् । सन् २००३ मा अमेरिकाले अन्तर्राष्ट्रिय बजारमा लागतमूल्य भन्दा २८ प्रतिशत कम मूल्यमा गर्नु र ४७ प्रतिशतभन्दा कम मूल्यमा कपास बेचेको थियो ।

चौथो - अन्तर्राष्ट्रिय कृषि व्यापारबाट न्यून मानिसलाई फाइदा पुग्दछ । वर्तमान विश्वको लगभग ७५ प्रतिशत खाद्यान्न व्यापार कार्गील र आर्चलडेनियल्स मिडल्याण्ड (एडीएम)नामक दुई अन्तर्राष्ट्रिय कम्पनीको नियन्त्रणमा छ । यस्तै परिस्थिति कफीको क्षेत्रमा पनि छ । अन्तर्राष्ट्रिय बजारमा आउने ५० प्रतिशत कफी साना किसानले उत्पादन गर्दछन् तर विश्व कफी व्यापारको ४० प्रतिशत अंश चारवटा कम्पनीको नियन्त्रणमा छ । विकसित देशका कम्पनीले अरवौं डलरको सहूलियत प्राप्त गरेर विश्व कृषि बजारमा आफ्नो हालिमुहाली बढाएका छन् । उनिहरू व्यापारिक प्रक्रियामा लगानी गर्ने प्रचुर श्रोतका कारण साना उत्पादकको तुलनामा बढी मजबुत स्थितिमा छन् । यसरी व्यापार उदारीकरण र डब्लुटीओको कृषि सम्झौताका आडमा मुडिभर कम्पनीले व्यवसायिक सत्ताको सुदृढिकरणमा सफलता पाएका छन् । यो पुरै श्रृंखलामा साना किसान सबैभन्दा कमजोर स्थितिमा छन् र उनीहरूले प्राप्त गर्ने मूल्य हरेक वर्ष आफ्नो उत्पादन लागतभन्दा कम हुँदै गएको छ । यसले अन्तर्राष्ट्रिय बजारमा सस्तो उत्पादनको डम्पिङ बढाएको छ ।

कृषि सम्झौतामा डम्पिङको समस्याबाट छुटकारा पाउनका लागि उत्पादन र मूल्यलाई प्रभावित गर्ने सरकारी सहूलियतमा कटौतीको प्रावधान राखिए तापनि डम्पिङ नरोकिनुका थुप्रै कारण छन् । यसो हुनु विकसित राष्ट्रहरूले सहूलियतलाई जारी राख्नु हो । अर्कोतर्फ कृषि सम्झौताका नियमले पनि डम्पिङका मूल कारणलाई सम्बोधन गर्न सकेको छैन । सम्झौताका कारण उत्पादन र व्यवसायिक निगमहरूको बजार शक्तिमा अंकुश लगाउन सकिएको छैन । डम्पिङबाट हैरान भएका राष्ट्रले दोषी देशका विरुद्धमा कारवाही गर्न सक्दैनन् किनभने यस्तो मुद्दाका लागि थुप्रै समय र पैसाको जरुरत पर्दछ । नेपाल जस्ता देशमा डम्पिङ गरिने बस्तुमा आय शुल्क लगाउनका निमित्त घरेलु तहमा डम्पिङ विरोधी कानुन हुनुपर्छ । तर धेरै विकासशील देशमा यस्ता कानुन छैनन् । यस्तो स्थितिमा डब्लुटीओको विवाद सल्टाउने संयन्त्रमा अपिल गर्नु बाहेक अर्को विकल्प रहँदैन । र, यो प्रक्रिया निकै कठिनपूर्ण छ । किसानले पाउने कुन भुक्तानी डब्लुटीओको नियम अन्तर्गत स्वीकार्य छ वा छैन भन्ने कुरालाई डब्लुटीओका सदस्य राष्ट्रले अहिलेसम्म पूर्ण रूपमा परिभाषित गर्न नसक्दा समस्या अझ जटिल भएको हो ।

अर्कोतर्फ डब्लुटीओ, विश्व बैंक र मुद्रा कोषका मञ्चमा उदारीकरणका बारेमा व्यक्त गरिएका प्रतिबद्धताका कारण अतिकम विकसित देशले सीमा शुल्क बढाउन अथवा आयात कोटा निर्धारण गर्न सक्दैनन् । उता संरचनागत समायोजन कार्यक्रमले विकाससिल देशहरूलाई अधिकांश व्यापार सम्बन्धित रुकावट हटाउन वा कटौती गर्न दवाव दिएको छ । अधिकांश विकासशील राष्ट्रहरूमा अन्तर्राष्ट्रिय व्यापार सम्बन्धित सीमा संरक्षण प्रावधान धेरै कमजोर छ । घरेलु तहमा मूल्य नियन्त्रणको सम्भावना घट्दो छ र उनीहरूसँग सीमित साधनका कारण सहूलियत प्रदान गर्ने क्षमता छैन । यसको अर्को पाटोमा विकसित राष्ट्रहरूको प्रभावका कारण विश्व बैंक र मुद्रा कोषले व्यापार सम्बन्धी बाधाहरूलाई

निमित्त्यान्न पार्न सकेका छैनन् । यदि सरकारले व्यवसायिक निकाय र निगमहरूको व्यवहारलाई अनुशासित गर्न र ठूला कम्पनीलाई आफ्नो उब्जनी बेच्ने किसानका उत्पादनको उचित मूल्य दिलाउन सक्ने हो भने यस्तो स्थिति चिन्ताको विषय हुँदैन ।

यी असन्तुलनलाई हटाउनुको सट्टा डब्लुटीओका नियमले अतिकम विकसित देशलाई हालको पक्षपात पूर्ण व्यवस्थाको एक यथास्थितिवादी हिस्सा बनाएको छ । र, यसैलाई डब्लुटीओको छैठौँ मन्त्रीस्तरीय हडकड सम्मेलनले निरन्तरता दियो । सन् ०१३ सम्म विकसित देशका किसानले आफ्ना उत्पादनको निकासिमा सरकारबाट प्राप्त गर्दै आएको अनुदान पाइरहने भए । विकसित देशले ००८ देखि मात्र अतिकम विकसित देशलाई भन्सार तथा कोटारहित बजार सुविधा दिने भएका छन् । यो गरिब मुलुकका लागि अवसर भए तापनि लगानीको श्रोत र मापदण्डको सवाल मुख्य अवरोध हुनेछ । अतिकम विकसित देशको कृषि क्षेत्रका हकमा हडकड सम्मेलनले न्याय दिन सकेन । यो दुःखत पक्ष हो तर हामीले निरास हुने स्थिति छैन । किनभने उदारीकरण र डब्लुटीओको विकल्प सम्भव छ । डब्लुटीओको विपक्षमा विश्वव्यापी अभियान सञ्चालन गर्न सकिन्छ । विकासशील देशहरूले डब्लुटीओको विकल्पमा अर्को संस्था सृजना गर्न सक्दछन् । विकासशील देशहरूको कार्यगत एकता र संगठनका बलले निश्चित रूपमा उदारीकरणको असमतामूलक र गैरन्यायिक ढरालाई परास्त पार्नेछ ।

४. पुनर्विचारका मुद्दाहरू

बहूदो निजीकरणसँगै जनताका आधारभूत सेवाहरू उपलब्ध गराउन राज्यहरू असफल भए । यस प्रणालीमा असमानताहरू र भिन्नताहरू उच्च रहे । यो पुरै श्रृंखलामा तल्लो तहका समूह प्रायः उपेक्षित भए । व्यवहारिक र यथार्थ धरातलबाट विकास, शासन, पारदर्शिता र जवाफदेहिताका मुद्दाहरू माथि हस्तक्षेप गर्न पनि सकिएन । यसको मुख्य कारण हस्तक्षेप अधिकारमुखी थिएन । त्यसैले विश्वव्यापीकरणका सन्दर्भमा अधिकारमुखी आयामहरू जोडिएका छन् । यसले विकासको एउटा नमूना जुन यथार्थ मै दीगो र अलग गर्न नसकिने सावित गर्दछ, किनभने अधिकारमुखी बाटोबाटमात्र जनता राज्यको शक्तिभन्दा उच्च हुने र उनीहरू नै सामाजिक परिवर्तनका वाहक बन्न सक्षम हुनेछन् । निर्णय प्रकृया र विकासका सबै तहमा समान हिस्सा कायम हुनेछ । सहभागितामूलक, प्रजातान्त्रिक, पारदर्शी र जवाफदेही सरकारको सुनिश्चित गर्न सकिनेछ । जसले गर्दा सबै खालका अन्याय विरुद्ध संघर्ष गर्न नागरिकहरू सक्षम हुनेछन् । सरकारका प्रयत्नहरू मर्फत उनीहरूले आफ्नो विकासका लागि स्वयं रचनात्मक कार्यको प्रवर्द्धन गर्न सक्नेछन् । यो स्थितिले नीतिमा परिवर्तन ल्याई समतामूलक विकास सुनिश्चित गर्छ । यो लाखौं गरिबका लागि न्यायपूर्ण र दीगो जीविकाको प्रत्याभूति हो । एकातिर विश्वव्यापीकरणको चक्र तीव्र रूपमा घुमिरहेको छ ।

अर्कोतर्फ तेश्रो विश्वमा राजनीतिक र प्रशासनिक असफलता व्याप्त छ । अकार्यात्मकता र कर्मचारीतन्त्रमा भ्रष्टाचारका कारणले गर्दा राज्यहरू बदलिँदो आर्थिक परिवेशमा आफ्नो वैधानिकता गुमाउँदै छन् । यो तेश्रो विश्वका हकमा संक्रमण पनि हो । त्यसैले हामीले अधिकार, न्याय र विकासका अवधारणाहरूलाई पुनर्विचार गर्न आवश्यक छ । यसका अतिरिक्त विश्वव्यापीकरणका असर, विभिन्न समुदायहरूमा यसको प्रभाव, दीगो जीविकाको अवधारणा र विकासप्रकृत्यामा सीमान्तकृत समुदायहरूको आर्थिक र सामाजिक अधिकारहरू पनि बुझ्न जरुरी छ ।

विश्वव्यापीकरणको प्रकृत्याले समुदायहरूलाई बेग्लै किसिमले प्रभाव पारेको छ, र हामीले त्यसलाई गम्भीर रूपले अन्वेषण गर्नु आवश्यक छ । किनारा लगाइएका आवाजहरूलाई मूल भागमा ल्याउने संघर्ष सबै तहमा सञ्चालन गर्न यसले सहयोग पुऱ्याउनेछ । विश्वव्यापीकरणको प्रकृत्याले मानवताका प्रत्येक पक्षलाई छुन्छ । विश्वव्यापीकरणको नवउदारवादी आर्थिक प्रकृत्याले सिमान्तकृत समुदाय माथि पर्ने प्रभावको समीक्षा हो । मुख्यतया ४ वटा आयामबाट यसको समीक्षा गर्न दिनु पर्छ । यो समीक्षाले मुख्यतया ४ वटा पुनर विचारका मुद्दालाई अधि साँछ ।

पहिलो : विकासका आधारभूत धारणामा पुनर्विचार गर्नु हो । यो विरोधाभाषपूर्ण शब्दावली पनि हो । अतः विद्यमान, सामाजिक, आर्थिक, राजनीतिक र साँस्कृतिक विविधतामा यसको विस्तृत अर्थ र स्पष्ट

व्याख्या आवश्यक छ । उदाहरणका लागि आदिवासी र शहरी मानिस या विकासशील र विकसित देशहरु बीच विकासको अर्थ फरक हुन्छ । यो फरकपन न्याय, विकास र प्रतिष्ठाका अभ्यासहरु बीच विद्यमान छ । वस्तुतः विश्वव्यापीकरणको प्रकृया समन्यायमा आधारित विकासको प्रत्याभूति दिन विफल भएको छ । विकास प्रकृया सिमान्तकृत वर्गको पहुँच बाहिर छ । विकास सम्बन्धी आयातित आयामहरु सीमित सक्षम वर्गका लागि मागी खाने भाँडो भएका छन् । मुलभूत रुपमा दावीको विषयवस्तु विकास बन्न सकेको छैन । न त यसलाई शासक वा अभिजात्य वर्गले सजिलै स्वीकारेका छन् । विकासलाई न्यायको रुपमा स्थापित गर्न नसक्दा पनि यस्तो भएको हो । जुन व्यक्ति वा समुदायलाई कानुनी प्रणालीद्वारा सम्मान प्रदान गर्ने आधारभूत सर्त हो । व्यक्तिको दाविबिना नै विकास अहरणीय छ । तर, सबैका लागि यो अहरणीय विषयवस्तु समन्यायको सिद्धान्त अनुसार प्रत्याभूत हुन नसक्दा नै यसको पुनर्विचार गर्नु परेको हो ।

दोस्रो, विश्वव्यापीकरणको युगमा अधिकार र न्याय सम्बन्धी एजेण्डाको पुनर परिभाषित गर्नु हो । न्यायको दिगोपन विश्वव्यापीकरणको विस्तारसँगै जटिल भएको छ । निर्वाध नाफा, व्यापार र पूँजीको परिचालनजस्ता आर्थिक अभ्यासहरु बीच निरन्तर तनाव बढेको छ । नवउदारवादी मोडेलले स्वतन्त्र व्यापार र पूँजीको अधिकारलाई जोडदार प्रवर्द्धन गर्दछ र किनारा लगाइएका समुदायहरुको २ वटा अत्यावश्यक अधिकारहरु- खाद्यन्नको अधिकार र श्रमको अधिकारसँग प्रत्यक्ष द्वन्द्व ल्याएको छ । जसले न्यायलाई अंकुश लगाएको छ । यो प्रकृयाको अभिकर्ताहरु भनेको प्रथम विश्वका राज्यहरु, विश्व व्यापार संगठन, विश्व बैंक, अन्तर्राष्ट्रिय मुद्रा कोष, बहुराष्ट्रिय कम्पनीहरु हुन् । र, उनीहरु आफ्नो सार्वभौमिकता कायम राख्न सफल भएका छन् । गरिव देशका जनता आधारभूत मानव अधिकारका लागि लडिरहेका छन् । विश्वव्यापीकरणमा अन्तर्निहित बहुमुखी प्रकृतिका कारण यसको उत्पत्ति, गतिशीलता र विभिन्न पक्षहरु विवादले भरिएको छ । यो २१ औं शताब्दीको उपज र चाहिने भन्दा बढी ढर्रा हो । बढ्दो गरिवी र विश्वव्यापीकरण बीचको सम्बन्ध र असरलाई केलाउन विवेक र विचार असफल भएको छ । तेस्रो विश्वमा निजीकरणको कारण सामाजिक सुरक्षाका संयन्त्रहरु तहसनहस भई समुदायहरुमा असमानता बढेको छ । यसले अधिकारको परिदृश्य तथा न्याय प्रदान गर्ने संयन्त्रहरुलाई नसोचिएको ढंगले असर पारेको छ । सेप्टेम्बर ११ को घटनापछि बहुराष्ट्रिय कम्पनीहरु बीचको सम्बन्ध, द्वन्द्व र स्रोतहरु माथि नियन्त्रणको संघर्षले एउटा नयाँ आयाम लिएको छ । यसले मानिसलाई वर्तमान र भविष्यको पिढीहरुका लागि स्रोत माथिको नियन्त्रण सँग सम्बन्धित महत्वपूर्ण प्रश्नहरु उठाउन बाध्य बनाएको छ । यसरी अधिकार र न्यायको एजेण्डामा विश्व व्यापीकरणको प्रकृयाको भूमिका विषाक्त बनेको छ । खास गरी साभा सम्पत्तिका स्रोतहरु, जीविका सम्बन्धी मुद्दाहरु एवं महिला किसान, दलित, आदिवासी र अन्य किनारा लगाइएका समुदायहरुको अधिकारको दिगोपनलाई विश्वव्यापीकरणको चक्रले संकटमा पुऱ्याइदिएको छ ।

तेस्रो, नीतिहरुको कार्यान्वयन पक्ष हो । असीको दशकयता तेश्रो विश्वका सरकारहरुले विश्वव्यापीकरण सन्दर्भमा धेरै नयाँ नीतिहरुको मस्यौदा गरे । सामाजिक अभियानहरु र जनसंघर्षहरुको दवावका कारण समाजमा विश्वव्यापीकरणका असरलाई न्यून गर्ने प्रयास गरे । अर्थतन्त्र, वातावरण र स्रोतहरुमा नव उदारवादी अर्थतन्त्रको नीतिहरुद्वारा खडा गरिएका मागहरु पूरा गर्न जोड दिए । यो नव उदारवादी आर्थिक नीतिले शासन र विकासको केन्द्रीय स्थानलाई प्रभाव पार्यो । र, यसबाट समाजमा प्रत्यक्ष रुपमा गरिव र धनीको दूरी बढ्यो । यसले विद्रोह र विरोधका स्वरहरुलाई जन्म दियो । सरकारी नीतिहरु र फराकिलो आर्थिक प्रकृयाले यो तनावको स्थिति निम्त्यायो । सिमान्तकृत समुदाय भन् किनार तिर धकेलिए । गतिशील अर्थतन्त्र र अवसरहरु उनीहरुका पक्षमा भएनन् । ती नीतिहरुले कुन हदसम्म जन कल्याणका लक्ष्यहरु हासिल गर्न सफल भए भन्ने पक्षमा विश्लेषण गरिएन । सरकारले ती नीति र अभ्यासहरुलाई पुनरावलोकन गर्न सकेनन् । अर्कोतर्फ कार्यान्वयन संयन्त्रको त्यतिकै अभाव रह्यो । अतः विश्वव्यापीकरणका प्रकृयामा तेश्रो विश्वका देशहरुले अवलम्बन गरेका नीतिहरुको गम्भीर रुपमा समिक्षा गरिनुपर्दछ ।

चौथो, द्वन्द्व र शान्तिको सन्दर्भ हो । यस आयाम भित्र आन्तरिक रुपमा विस्थापितहरुको मुद्दा पनि पर्छ । तेस्रो विश्वका अधिकांश देशमा द्वन्द्वको स्थिति विद्यमान छ । जसले न्याय र शान्तिको हरण गरेको छ । विश्वव्यापीकरण, बढ्दो आतंकवाद र त्यसको प्रतिरोधका साथ हातहतियारको खुलाव्यापार पनि यसको कारक पक्ष हो । गत एक दशक यता विश्वका धेरै भागमा विस्थापितको संख्या बढ्यो । अल्पसंख्यक विरुद्ध भेदभाव, हिंसा, युद्ध, जातीय घृणा, राज्यदमन, आत्म निर्णयका लागि माग, प्राकृतिक दुर्घटना र गलत किसिमले बनेका विकास आयोजनाले आन्तरिक विस्थापनलाई बढावा दिएको छ । द्वन्द्वको अवधिमा व्यक्तिका अधिकारहरु हरण हुन्छन् । यस्ता अवस्थामा महिला, बालबालिका, बृद्ध मानिसहरुको आधारभूत आवश्यकताहरु भन्नु गम्भीर संकटमा पर्छ । अर्कोतर्फ शान्तिको अर्थ हिंसा वा युद्ध नहुनुमात्र होइन । न्यायको अनुपस्थिति पनि हो । जस्तो- कुनै समाज भित्र एक समूहले अर्को समूहलाई अत्याचार गर्छ भने त्यहाँ हिंसा रहित अवस्थामा पनि शान्तिको अभाव हुन्छ । शान्ति र न्याय मानवको मैत्रीपूर्ण सन्तुलनको सन्दर्भ हो । तिरस्कृत न्यायको उपस्थिति विश्वव्यापीकरणको उपज हो । शान्ति स्थापना गर्न, सामाजिक आर्थिक तथा राजनीतिक द्वन्द्व कम गर्ने र सबैका लागि न्याय हासिल गर्ने बृहत्तर लक्ष्यका लागि विश्वव्यापीकरण असफल भएको छ । त्यसकारण, राज्य तथा नागरिकद्वारा द्वन्द्व न्यून गर्न, शान्ति स्थापना गर्न एवं न्याय सुनिश्चित गर्नका लागि समावेशी राजनीतिको उपयोग गरिनुपर्छ । अतः अबको आन्दोलन विश्वव्यापीकरणको विकल्प तर्फ केन्द्रित हुनुपर्छ ।

५. संक्रमण र परनिर्भरताको सेतु

नेपाल लगायत विश्वका धेरै देशहरु सन् १९९० पछाडि तानाशाही राज्य व्यवस्थाबाट नयाँ प्रजातन्त्रिक राज्यप्रणालीमा रुपन्तरण भए । कुनै पनि राज्य नव राज्यका रुपमा रुपन्तरण हुँदा सबै राज्यसंयन्त्रहरुमा सुधारको प्रकृयाको आवश्यकता पर्दछ । सुधार, विकास र मानवअधिकारका सवाल एकै साथ आउदछन् । तर यो प्रकृयालाई कतिपय सरकार राज्य सत्तापक्षहरु ले छुट्टा छुट्टै किसिमले लिने गरेकाछन् र यो तेस्रो विश्वको मुख्य चुनौति हो । कार्यपालिका, न्यायपालिका, व्यवस्थापिका लगायतका राज्यका तमाम निकायहरु सुधार, पुनसंरचना र प्रशिक्षणको कुराका साथ साथै नयाँ संविधानमा सहमति, नयाँ कानुनहरुको निर्माण, विकासका रणनीतिहरुको तर्जुमा र मानव अधिकारको सवाल एकै साथ आउदछन् । न्यायघर र कैद खाना जस्ता आधारभूत सेवा र सहूलियतका कुराहरु स्वच्छ र पर्याप्त हुँदैनन् । नव राज्यहरुमा यो समस्या लामो समयसम्म जस्ताको तस्तै रहेको पाइन्छ । नेपालमा पनि यो समस्या यथावत छ । अर्को तर्फ तानाशाह र उसको दमनचक्रबाट नव राज्यको उदय हुँदा पुरानो सोच, संरचना र प्रवृत्तिलाई समाजले सजिलैसंग छोडी नयाँ कुराहरुलाई ग्रहण गर्न सक्दैन । जसले गर्दा गतिशील अवधारण, नीति, कार्यक्रमहरु र त्यसलाई कार्यान्वयन गर्ने निकाय र संयन्त्रहरुको निर्माण गरिनु पर्दछ । यो सबै कामका लागि स्रोत, समय र प्रविधि चाहिन्छ र नव उदय राज्यहरुमा यसको अभाव हुन्छ । अर्कोतर्फ तानाशाही व्यवस्थाबाट प्रजातन्त्रको उदय हुदा वैदेशिक अनुदानको खोला बग्दछ । दाताहरु परामर्शप्राविधिक र आर्थिक साहायताका लागि आउँदछन् । सरकार र नागरिक समाजलाई सुधार र पुनः संरचनाका लागि सहयोगको सुरुवात गर्छन् । बहुराष्ट्रिय कम्पनीहरुको आगमनको सम्भावना बढ्छ । अन्तर्राष्ट्रिय मुद्रा कोष, विश्व बैंक, एसियाली विकास बैंक जस्ता नियोगहरुले विश्वभूमण्डलीकरण, खुल्ला अर्थनीति र निजीकरणको वकालत गर्दछन् । यस्तो वातावरणमा नव राज्यले धेरै कुराहरुलाई स्वीकार्दछन् । जसको परिणाम र प्रभावलाई कम विश्लेषण गरिन्छ । तर जनतालाई यसले दीर्घकालीन रुपमा नकारात्मक प्रभाव पर्दछ । यस्ता अनुदानहरु बाट क्षोणिक उद्देश्यहरु प्राप्त गर्न सकिएला तर यसले स्थानीय क्षमता र स्वाभिमत्त्वलाई अधिवृद्धि गर्न सक्दैन । अर्कोतर्फ स्थानीय समुदायलाई दीर्घकालीन रुपमा समायोजनको कार्यक्रममा समेट्न सक्दैन । जसको परिणाम परनिर्भरता बढ्दै जान्छ । अविकासको विकास हुन्छ । एकखाले सीमित अभिजात्य वर्गको उदय हुन्छ । तिनीहरु विकास र मानव अधिकारका ठेकदार हुन्छन् । उनीहरुलाई नै दाताहरुले विश्वास गर्दछन् । यसले विभेद जन्माउँदछ र आम नागरिकहरुको आत्मसम्मानमा चोट पुग्दछ ।

अनुदान र आर्थिक सहायता परनिर्भरताको मुख्य कारण हो । जस्तो- नेपालले पनि २००८ सालपछि वैदेशिक अनुदान र आर्थिक साहायता प्राप्त गर्न थालेको हो र सन् १९९० पछि यसको मात्रमा

अत्यधिक वृद्धि भयो । तर हाम्रो अवस्थामा केही परिवर्तन भएको छैन । २००८ साल देखि २०६० सम्म ५२ वर्षको अवधिमा हाम्रो औसत आर्थिक वृद्धिदर १.२६ मात्र रह्यो जुन सब-सहाराण अफ्रिकी मुलुकहरूको भन्दा पनि कम हो । २००८ सालमा हाम्रो प्रतिव्यक्ति आय ८०, थाइहरूको ८५ र कोरियाली १०० अमेरिकी डलर थियो । आज कोरियालीहरूको १० हजार, थाइको ३ हजार र हामी २४० को हाराहारीमा छौं । यसको मुख्य दोश हामीले सरक दाताहरूका सर्त स्वीकार्नु, अन्तराष्ट्रिय मञ्चहरू र भूमण्डलीकरणका प्रकृयाहरूमा वृहत् छलफल र विश्लेषण विना नै सहमति जनाउनु हो । अर्को तर्फ यी सबै कुरामा जनताको अधिकार छ भन्ने कुरालाई सरकारका नीति र निर्णयले सम्बोधन गर्न सकेन । नत अभिजात्य वर्गले राइट वेस एप्रोचमा जनताका तर्फबाट बकालतनै गर्न सके । यदाकदा कसैले सूचना र अधिकारको कुरा उठाउँदा पागल घोषित भए ।

६. विकास र अधिकार : भ्रम र परिपूरक

मानव अधिकार र विकासलाई सामान्य शब्दावलीमा हर्दा दुई नदिका किनार जस्तो देखिन्छ । कतिपय अभिजात्य वर्ग, सरकारी एवं विकास नियोगका अधिकारीहरूले यी दुवै एक अर्कामा असम्बन्धीत छन् भन्ने तर्क गर्दछन् । यथास्थितिवादीहरू उच्चस्तरको प्रजातन्त्रमा मानव अधिकारहरू सहूलियतका विषय हुन् भनी दावी गर्दछन् । तर यो दावी भित्र मानव अधिकारलाई सिमित गरी विकासबाट अलग राख्न सकिदैन । र छुटा छुट्टै विषय पनि होइन । विकासलाई आर्थिकपक्षसँग र मानव अधिकारलाई राज्यको राजनीतिक प्रणाली भित्र सिमित गरिनु हुन्न । तर कतिपय दातृ निकाय र सरकारले विकास र मानव अधिकार लाई एकिकृत रूपमा अधि बढाउन सकेका छैनन् । मानव अधिकारका सवालहरू विकासका केन्द्र हुन् । आर्थिक शब्दावलीमा मात्र प्रगतिको मापन गर्न सकिदैन । मानव अधिकारका धरातलबाट आर्थिक प्रगतिलाई हेरिनुपर्छ । पछिल्ला वर्षहरूमा विश्वसमुदायले मानव अधिकार र विकासलाई परस्परमा अलग गर्न नसकिने विषयका रूपमा दावि गरेका छन् । विकास र मानव अधिकारलाई एकअर्काबाट अलग गरिँदा यी दुवैको अर्थ र परिणाम सिमित हुन जान्छ ।

७. नेपालको संक्षिप्त विकास नीति

पञ्चवर्षे योजना तथा नीतिहरूलाई निरन्तरता दिँदै सन् १९९० मा प्रजातन्त्रको पुनर्स्थापना पछि नेपाल सरकारले थुप्रै नयाँ नीतिहरू लागू गर्‍यो । यी नीतिहरूका मुख्यगरी तीनवटा क्षेत्रमा राख्न सकिन्छ—

१. गरीबी निवारण,
२. बजार अर्थतन्त्र र निजीकरणको प्रवर्द्धन,
३. सामाजिक क्षेत्र तथा परिलक्षित कार्यक्रमहरू ।

त्यसै गरी नेपालले सन् २००० पछि सहस्राब्दी विकास लक्ष्यलाई अङ्गीकार गरेको छ । सहस्राब्दी विकासका लक्ष्यका प्रमुख आठ बुँदा निम्न छन्—

१. उग्र गरिबी तथा भोकमरीको उन्मूलन,
२. सर्वव्यापी प्राथमिक शिक्षा हासिल,
३. लैङ्गिक समानताको प्रवर्द्धन तथा महिला सशक्तिकरण,
४. बालमृत्यु दर घटाउने,
५. मातृत्व स्वास्थ्य सुधार,
६. एच.आइ.भी/एडस, मलेरिया र अन्य रोग विरुद्धको लडाई,
७. वातावरणीय दिगोपनाको सुनिश्चितता,
८. विकासका निम्ति विश्व साभेदारीको विकास ।

यी सहस्राब्दी विकासका लक्ष्यलाई पूर्णरूपमा हासिल गर्ने नेपालले प्रतिवद्धता जारी गरे तापनि कार्यान्वयन पक्ष कमजोर छ । सन् २०१५ सम्ममा प्राप्त गर्नुपर्ने प्रतिफलका मापदण्डहरू हामीले पुरा गर्न सक्तैनौं भन्ने कुरा लगभग निश्चित छ ।

ती मापदण्डहरू हुन्—

लक्ष्य नं. १ को हकमा प्रतिदिन एक डलर अर्थात् नेरु ७० भन्दा कम आय भएका व्यक्तिहरुको संख्या सन् १९९० देखि २०१५ सम्म आधा गर्ने र यसै प्रकार सोही अवधिमा भोकमरीबाट पीडित व्यक्तिहरुको अनुमात समेत आधा पार्ने ।

- लक्ष्य नं. २ को हकमा सन् २०१५ सम्ममा सम्पूर्ण बालबालिकाहरुलाई प्राथमिक शिक्षा पूर्ण गराउन सुनिश्चित गर्ने
- लक्ष्य नं. ३ को हकमा प्राथमिक तथा माध्यमिक शिक्षामा संभवत सन् २००५ सम्म र सम्पूर्ण तहको शिक्षामा सन् २०१५ अगावै लैङ्गिक विभेद उन्मुलन गर्ने
- लक्ष्य नं. ४को हकमा पाँच वर्ष मुनीका बाल मृत्युदरलाई सन् १९९० देखि २०१५ को अवधि विच २/३ ले घटाउने
- लक्ष्य नं. ५ को हकमा सन् १९९० देखि २०१५ सम्म मातृ मृत्युदर ३/४ले घटाउने
- लक्ष्य नं. ६ को हकमा सन् २०१५ सम्म एच.आइ.भी/एडस, मलेरिया र अन्य रोगहरुको रोकथाम गरी तिनीहरुको फैलने क्रमलाई घटाउने
- लक्ष्य नं. ७ को हकमा राज्यको नीति तथा कार्यक्रमहरुमा दिगोपन विकासको सिद्धान्तलाई एकीकृत गरी वातावरणीय सम्पदाको नोक्सानीलाई घटाउने र सन् २०१५ सम्म सुरक्षित खानेपानी र आधारभूत सरसफाइमा दीगो पहुँच नभएको जनसंख्या आधा घटाउने,
- लक्ष्य नं. ८ को हकमा खुला, कानुनमा आधारित, निश्चित, भेदभावरहित वाणिज्य र आर्थिक प्रणालीको अभि विकास गर्ने ।

उल्लेखित क्षेत्रमा निर्धारित नयाँ नीति तथा कार्यक्रमहरुले गरिवी निवारण, न्याय, समता, मानव अधिकार तथा शासनमा उल्लेख्य सुधार ल्याउने लक्ष्य राखेको भएता पनि कार्यान्वयन पक्ष सन्तोषजनक छैन । यद्यपि, राज्यका राष्ट्रिय नीति तथा कार्यक्रमहरुको कार्यान्वयन प्रभाव अत्यन्तै कमजोर छ । अहिलेको बदलिँदो परिस्थितिमा यी नीतिहरुको पुनर्मुल्याङ्कन अपरिहार्य हिस्सा हो । प्रशासन तथा न्यायप्रदान जस्ता कुराहरु राष्ट्रिय नीति तथा कार्यक्रमहरुको अध्ययनमा आधारभूत महत्व राख्छन् । नीति तथा कार्यक्रमहरुको समालोचनात्मक अध्ययन पनि आवश्यक छ किनकी वास्तविक अर्थमा ती जनकेन्द्रित छैनन् । न त तिनीहरुले सीमान्तकृत समुदायको उत्थान र विकासमा योगदान दिन नै सकेका छन् । यस्तो परिस्थितिमा जनताको आन्दोलन र संघर्ष एउटा वैकल्पिक रणनीति हुन सक्छ । विकास नीतिहरु जनताका तर्फबाट प्रस्तुत हुन आवश्यक छ । नेपालका धेरै राष्ट्रिय नीतिहरु अन्तर्राष्ट्रिय वित्तिय संस्थाका नीतिहरुबाट प्रभावित रहेका छन् । नेपाल डब्लुटिओको सदस्य बनीसकेको अवस्थामा हामीले सिमान्तकृत समुदायहरुको हितलाई प्रभावकारीरूपमा सुनिश्चित गर्ने गरी जनताको आन्दोलनलाई विकास गर्नु पर्दछ । यसैगरी हामीले विकास नीति र ढाँचामा जनताको मानवअधिकार अवधारणालाई समावेश गर्न सक्नुपर्छ । यसका लागि हामीले जनताको मानवअधिकारमा अन्तर्राष्ट्रिय वित्तिय संघ-संस्थाका नीति तथा कार्यक्रमहरुले कस्तो प्रभाव पारेका छन् भन्ने कुरा खोतल्नु पर्छ ।

८. उदारीकरण र नेपाली कृषिक्षेत्रको हविगत

सन् १९८६ मा नेपालले मुद्राकोषका सर्तहरुलाई पालना गर्दै संरचनागत समायोजन कार्यक्रमका नीतिहरुलाई अवलम्बन गर्‍यो र पहिलोपटक यस मार्फत मुद्राकोषबाट ऋण लियो । आर्थिक विपन्नतामा पिल्सिएको नेपालका लागि ऋण लिनु अवसर थियो । तर नेपालले यो कार्यक्रमलाई नीतिगत रूपमा स्वागत गरेपछि नेपालको कूल ग्राहस्थ उत्पादनमा कृषि क्षेत्रको योगदान प्रत्येक वर्ष घट्दै गयो । स्वदेशी कच्चापदार्थमा आधारित कृषि उद्योगहरुको स्थापना हुन सकेन । उदारीकरणको असर कृषि उत्पादनको विक्रिमा पयो । जस्तो- मौसमले साथ दिएको वर्ष नेपाली कृषकले अत्यधिक धान उत्पादन गर्दछन् । उता भारतमा अनुदानले धानको लागत र मूल्य सस्तो हुन्छ । यस्तो परिस्थितिमा अनुदान विना नेपाली कृषकले लगतमूल्य भन्दा कममा धान विक्री गर्नुपर्ने बाध्यता छ । वि.सं. २०५४ सालमा सरकारले उदारीकरणको नीति अनुरूप नेपाली व्यापारीलाई बंगलादेशमा खाद्यान्न निर्यात गर्ने छुट दियो तर यसको केही समयपछि महँगो मूल्यमा चामल आयात गर्ने स्थिति पैदा भयो । यसरी नेपाल लगायत

अति कम विकसित देशका कृषकलाई उदारीकरण समस्या बनेको छ । यसो हुनको कारण यी देशहरु वैदेशिक ऋण र सहयोगमा भरपर्नु पनि हो । किनकी उदारिकरणको दवावमा उनीहरुले राष्ट्रिय पूँजी र प्रविधिलाई प्रवर्धन गर्न पनि सक्दैन र, परम्परागत मौलिक सीप, प्रविधि र स्रोत हराउँदै जान्छन् । भादगाउँको टोपी, खाडी कपडा, खोकनाको तेल, पाल्पाको करुवा लोटा आज लोपोन्मुख हुनु यसैको परिणाम हो ।

९. विकास ढाँचाको विकल्प

समकालीन विश्वमा विकास वृहद् बहसको विषय बनेको छ । दोश्रो विश्वयुद्ध पछि विकास शब्दको साम्राज्य संसारभर तिव्र रूपमा फैलियो । सन् ४५ देखि ८० को दशकसम्म ग्राहस्थ उत्पादन, राष्ट्रिय वचत, आर्थिक बृद्धिदर, प्रतिव्यक्ति आय, कूल राष्ट्रिय उत्पादनलाई विकास भनिन्थ्यो । तर, यो विकासको ढाँचालाई ८० पछि विकास मानवशास्त्रीहरुले तिव्र आलोचना गरे । परिणामस्वरूप विकासको विश्लेषण र अवधारणीकरणमा थप नयाँ आयामको प्रार्दुभाव भयो । विकास आर्थिक, सांस्कृतिक सामाजिक र राजनीतिक पक्षको दिर्घकालीन सुधारमा केन्द्रित भयो । यसमा सम्पूर्ण जनताको स्वतन्त्र, सक्रिय र अर्थपूर्ण सहभागिता हुनुपर्दछ । र प्रतिफलको वितरणमा निष्पक्षता प्रमुख मुद्दा बन्यो । सन् ८०-९० को दशकतिर आर्थिक प्रगति विकास होइन र यो सार्थक हुनका लागि मानवीय विकास हुन पर्ने तर्कले बाहुल्यता पायो । विकासलाई स्वस्थ, औसत आयु, मानवीय मर्यादाको वस्तुगत अभ्यास र वार्षिक आयदरका आधारमा मापन गर्नुपर्ने ठहर गरियो । र यो तर्कलाई सन् १९९० को संयुक्त राष्ट्रसंघीय विकास कार्यक्रमको मानव विकास प्रतिवेदनले ग्रहण गर्‍यो । हो, २१ औं शताब्दिमा विकासका शास्त्रीय अवधारणामा कुनै तुक छैन । जसले विकासको ढरामा अविकासको विकास गर्‍यो । र, यिनले आजको विश्वमा विकास प्रकृत्यामा ठोस योगदान दिन सक्ने अवस्था छैन । गरिवी बढ्दै छ । अविकास घटेको छैन । यसको मतलब विकासका मोडेलहरु असफल भए र अब हामी निरास हुँदैछौं भन्ने होइन । अहिले सम्म भएका विकासका अवधारणाहरुको वैकल्पिक धार छ । जुन धारलाई धेरै सामाजिक अभियानकर्ताहरुले अन्तर्राष्ट्रिय तहबाटै सन् २००० पछि तिव्ररूपमा उठाएका छन् । नेपालको सन्दर्भमा यो नयाँ विषयवस्तु हुन सक्ला । तर विकासको अधिकारमुखी अवधारणा २१ औं शताब्दीको विकास सम्बन्धी दृष्टिकोणको प्रभावकारी औजार बनीसकेको छ ।

वर्तमान नेपालको परिप्रेक्ष्यमा विकासको अधिकारमुखी अवधारणा वृहदरूपमा प्रासङ्गिक छ । यो सैद्धान्तिक रूपमा अन्तर्राष्ट्रिय मानव अधिकार मापदण्डमा आधारित छ । कार्यगत रूपमा मानव अधिकारको प्रवर्धन र संरक्षण तर्फ निर्देशित मानव विकास प्रकृत्याको स्वरूप हो । निश्चित रूपमा अधिकारमुखी दृष्टिकोणले अन्तर्राष्ट्रिय मानव अधिकार प्रणाली, मापदण्ड र सिद्धान्तहरुलाई विकास योजना, नीति र प्रकृत्याहरुमा एकिकृत गर्दछ । त्यसैले विकासको अधिकारमुखी दृष्टिकोण बढी प्रभावकारी छ । यसले पूर्ण विश्लेषणलाई जोड दिन्छ । जस्तो विगतमा गरिवीको विश्लेषण गर्दा आम्दानी र आर्थिक परिसूचकमा मात्र आधारित हुन्थ्यो । तर अधिकारमुखी अवधारणागत विश्लेषणले अधिकार विहिनता, सामाजिक परित्याक्तता, अल्पसंख्यक, राजनैतिक रूपमा सिमान्तकृत गरिवका मुद्दालाई जोड दिन्छ । महत्वपूर्ण पक्ष त यसले सामाजिक सेवाको सट्टामा राज्यले सैनिक खर्चमा जोड दिने कुरालाई जाँच र खवरदारी गर्दछ । विकासलाई शसक्तीकरण गर्ने पक्षका अन्तर्राष्ट्रिय कानुनी दायित्वहरु तथा राष्ट्रिय प्रतिबद्धताहरु सहित श्रोतमा दावी गर्ने आधिकारिक स्थितिका लागि वकालत गर्दछ ।

त्यसैले नेपालको सन्दर्भमा यसरी विकासको अधिकारमुखी अवधारणालाई ६ वटा आयामबाट विश्लेषण गर्नुपर्छ । पहिलो यसले अधिकारसँग सम्बन्धको अभिव्यक्ति गर्दछ । अन्तर्राष्ट्रिय मानव अधिकारका मान्यतासँग जोडेर विकासका उदेश्यलाई परिभाषित गर्दछ । विकासमा स्थानिय जनताको अधिकारलाई वैधता दिन्छ । यसले नागरिक, राजनैतिक, आर्थिक, सांस्कृतिक र सामाजिक अधिकारलाई सम्बोधन गर्दछ जुन विकासको अभिन्न अङ्ग हो । अन्तर्राष्ट्रिय रूपमा स्थापित विकासका प्रारूपहरुलाई यो प्रकृत्याले स्थापित गर्दछ । जस अन्तर्गत स्वास्थ्य, शिक्षा, आवास, न्यायप्रशासन, जीवन रक्षा, राजनैतिक

सहभागिता आदीको विकास अधिकार र विकास एकै साथ प्रत्याभूत हुन्छन् । तर विकासको वाहनामा जनताका अधिकार हनन् गर्ने विकास नीति र परियोजना सञ्चालन गर्ने पाइन्छ भन्ने यसको अर्थ होइन ।

दोस्रो यसले 'जवाफदेहिता'लाई चुस्त राख्दछ । दायित्व र कर्तव्यपालनहरूको पहिचान गर्दै यो अवधारणाले विकासमा जवाफदेहिताको स्तर माथि उठाउँदछ । यहाँ कर्तव्य पालक भनेको राज्यका विधायिका, न्यायपालिका र व्यवस्थापकीय संयन्त्र हुन् भने दायिकर्ता जनता हुन् । कर्तव्यबाट विमुख नहुन जवाफदेहिताको कसी हो । यसमा शुद्ध आचरण पनि समावेश हुन्छ । अधिकारको प्रदान, संरक्षण र प्रवर्धन गर्नु नै जवाफदेहिताको केन्द्र हो । अधिकार हनन्प्रति जिम्मेवारी वहन गर्ने परिपाटीले जवाफदेहितालाई मजबुद बनाउँदछ । कानुनी नीति, निकाय, प्रशासनिक प्रकृया र अभ्यास, संयन्त्र जस्ता कुरा जवाफदेहिताका आधारभूत शर्त हुन् । यसले विकासलाई सहज बनाउँदछ । प्रगतिमापन गर्न र विश्वव्यापी मापदण्डलाई स्थानिय स्तरमा रुपान्तरण गर्न आकार दिन्छ । विकास र सबैखाले मानव अधिकारको प्रत्याभूतिका लागि राज्यसँग राजनैतिक इच्छाशक्ति र कार्यान्वयन सुनिश्चित गर्ने साधन हुन आवश्यक छ । र, यो लक्ष्य प्राप्त गर्न राज्यले आफ्नो कानुनी, प्रशासनिक तथा संस्थागत संयन्त्रहरूलाई उपयुक्त किसिमले तयार गर्नुपर्दछ । जसले गर्दा जवाफदेहिताबाट आफ्ना निकायहरू विचलित नहुन् । जस्तो सामाजिक, आर्थिक र सांस्कृतिक अधिकार र विकासका लागि राज्यले तत्काल कदम चाल्नु पर्दछ । नागरिक तथा राजनीतिक अधिकारको सम्मान र प्रत्याभूत गर्न राज्यवाध्य हुन्छ । यी दुवै समूहका अधिकारहरूलाई नेपालले अनुमोदन पनि गरेको छ । यी अधिकारहरूको इन्कारी प्रतिगमन हो । त्यसैले विकासको हकमा मानव अधिकार संरचना अत्यन्त प्रभावकारी मार्गदर्शन हो । विकास र मानव अधिकार सम्बन्धी प्राथमिक दायित्व राज्यमा निहित छ । तर यसका लागि विकाससिल राष्ट्रहरूमा साधन र क्षमताको अभाव छ । त्यसैले अन्तर्राष्ट्रिय सहयोग उपलब्ध गराउनु विकसित देशहरूको जवाफदेहिता हो ।

तेश्रो- यो दृष्टिकोणले समुदायको 'सशक्तीकरण' को रणनीतिलाई जोड दिन्छ । सशक्तीकरणले लाभान्वित वर्गलाई अधिकारका मालिक र विकासका निर्देशकका रुपमा प्रस्तुत गर्दछ । जनतालाई विकास प्रकृयाको केन्द्र विन्दुमा राख्न जोड दिन्छ । जनताहरू आफैं, आफ्ना प्रतिनिधि वा नागरिक समाजका निकाय मार्फत विकासको केन्द्रमा संलग्न हुन्छन् । सशक्तीकरणको लक्ष्य भनेको जनतालाई आफ्नो जीवन परिवर्तन गर्ने पहुँच स्थापित गर्नु हो । आफ्नो समुदाय सुधार गर्न र भाग्य प्रभावित गर्न शक्ति, क्षमता र कार्यक्षमता प्रधान गर्नु हो ।

चौथो- विकासका नागरिक समाज, अल्पसंख्यक, आदीवासी, महिला लगायत सबै पक्षको 'सहभागिता' आवश्यक पर्दछ । विकासको अधिकार सम्बन्धी दस्तावेजहरूले विकासमा सक्रिय, स्वतन्त्र र अर्थपूर्ण जनसहभागितालाई अपरिहार्य ठानेको छ । अधिकारमुखी दृष्टिकोणले विकास प्रकृयाका सूचना र सिकायतलाई आत्मसाथ गरेको छ । यसका लागि सबै संयन्त्रमा पहुँचको मुद्दाले प्रमुखता पाउँदछ । यसको अर्को स्पष्ट रुपमा लाभान्वित वर्गसम्म विकास परियोजनाको संयन्त्र पुग्नुपर्छ भन्ने हो । योजनाको उठान, तर्जुमा, नीतिनिर्माण र कार्यान्वयनको चरणमा लाभान्वित वर्गको सहभागिता हुनुपर्दछ । यसरी यो दृष्टिकोणले सहभागितामा आधारित विकास विधि र प्रविधिमा जोड दिन्छ ।

पाँचौं- विकासलाई अधिकार दृष्टिकोणमा जोडेर हेर्दा 'गैर भेदभाव र जोखिमपूर्ण समूहको हेरचाह' लाई विशेष ध्यान दिनु पर्दछ । जोखिमताको स्तर निर्धारण गर्न कठिन भएतापनि नेपालको सन्दर्भमा गरिवीको रेखामुनी रहेका महिला, बालबालिका, दलित, जनजाति, अल्पसंख्यक, कर्मैया, हलिया, श्रमिक बन्दी आदि यस वर्गमा पर्दछन् । अर्कोतर्फ भौगोलिक रुपमा पनि जोखिमताको निर्धारण गर्न सकिन्छ । त्यस्तै महिला र दलित भनेका भेदभावका पहिलो सिकार हुन् । नेपालको अधिकांश क्षेत्रमा उनीहरू सबभन्दा बढी जोखिममा र कम शसक्त छन् । विकासको अधिकारमुखी दृष्टिकोणको एउटा पाटो भनेको विकासका संयन्त्र र प्रकृयामा जोखिमपूर्ण समुदायको अधिकार र भलाईलाई सुनिश्चित गर्नु हो ।

भेदभावको अन्त हुन पनि त्यतिकै आवश्यक हुन्छ । विकासका नीति कार्यक्रम योजना तथा परियोजनाहरू गैर भेदभावयुक्त हुनुपर्छ ।

प्रजातन्त्र, विकास, मानव अधिकारको सम्मान र मूलभूत स्वतन्त्रता अर्न्तनिर्भर र एक अर्काका पूरक छन् । राज्यले कुनै परिस्थितिमा यिनलाई इन्कार गर्न पाउँदैन । सबै जनताका सबै अधिकार प्रवर्धन गर्ने विकास मार्फत समानता र गैर भेदभावमा आधारित समावेशी समाजको निर्माण राज्य सञ्चालन प्रणालीको आधारभूत शर्त हो । र, यसको पूर्ण अभ्यास हामीले गर्न सकिराखेका छैनौं । निश्चित रूपमा विद्रोहको जड पनि यही हो ।

छैठौं - विकासमा 'लैङ्गिक आयाम'लाई उच्चतहमा मूल प्रवाहीकरण गरिनु पर्दछ । विकास र मानव अधिकार प्रक्याबाट लैङ्गिक मुद्दा अलग रहन सक्दैन । राज्यका विकास सम्बन्धी नीति तथा कार्यक्रमहरूले लैङ्गिक दृष्टीकोणलाई मूलप्रवाहीकरण गर्न सक्नुपर्दछ । हामीले यो अभ्यास गर्न सकेको भए आज माओवादी छापामार भएर महिलाले बन्दुक उठाउने थिएनन् । विकास प्रक्यामा महिलाको सक्रिय भूमिका नहुनु विगतका हाम्रो मूल कमजोरी थियो ।

नेपालको विकास नीति, राष्ट्रिय योजना र कार्यान्वयन संयन्त्रहरूमा अधिकारमुखि अवधारणालाई समावेश गर्न सकिएको छैन । न त यसमा, गैर भेदभाव र जोखिमपूर्ण समूहको हेरचाह, सहभागिता, शसक्तिकरण, जवाफदेहिता र अधिकारसँग सम्बन्धको स्पष्ट अभिव्यक्ति नै भएको छ । जनजाति र दलितप्रति लक्षित केही कार्यक्रम र योजना अपर्याप्त छन् । गाँस, बास र कपासको अभावमा विरक्तिर माओवादी समूहमा बन्दुक बोक्ने क्षेत्र - बाहुन युवाहरूको समस्यालाई कहिले सम्बोधन गर्ने ? अधिकार र विकास सर्वव्यापी हुनुपर्दछ । यसको अर्थ प्रायः सरकारका रूपमा रहने कर्तासँग सामाजिक रूपमा स्विकार्य अधिकार दावि गर्ने हैसियत हरेक जनताको उतिकै अधिकार हो । अधिकारविहिन तथा निम्न स्तरका मानिसको अधिकार अस्विकार गरिएका घटना मानव इतिहासमा धेरै छन् । हाम्रो समाजमा जातियता, अल्पसंख्यक, लिङ्ग तथा पुस्तैनी अवस्थितिका कारण त्यस्तो परित्यक्त स्थिति विद्यमान रहेको छ । यो भनेको वर्तमान समाज र राजनैतिक प्रणालीको सबैभन्दा ठूलो चुनौति हो । यो चुनौतिलाई सामना गर्ने हाम्रो विकल्प भनेको अधिकारमुखी अवधारणा हो ।

हामीले विकासका तथ्याङ्कहरूलाई श्रोतमाथिको पहुँच, जाति, धर्म, वर्ण, लिङ्ग जस्ता बहु दृष्टिकोणबाट पुनः परिभाषित गर्नुपर्छ । अधिकारका उपलब्धिलाई विकासका उद्देश्यसँग जोड्नुपर्छ । जोड्नु भनेको नागरिक तथा राजनीतिक र सामाजिक, आर्थिक तथा सांस्कृतिक अधिकारलाई अभिभाज्य स्वरूप स्विकार्नु हो । जसले गरिवी उन्मूलन गर्ने, उत्पादक रोजगारी प्रवर्धन गर्ने, स्थिर सुरक्षित र न्यायमूलक समाजको स्थापनाका लागि सामाजिक एकीकरणलाई बढावा दिनेगरी मानव अधिकार र विकास बीच सम्बन्ध स्थापित गर्नेछ ।

१०. निष्कर्ष

अधिकारमुखी दृष्टिकोणहरू बढि प्रभावकारी, दिगो, यथार्थपरक र समस्यामुखी विकास प्रक्या हुन् । यसले विशेषगरी कर्तव्य र कर्तव्यधारीहरूको पहिचान गरी विकास प्रक्यामा जवाफदेहिता वृद्धि गर्दछ । यसले विकासलाई सहयोग वा दान भन्दा बढी दायित्वका रूपमा चित्रित गर्न सघाउ पुऱ्याउँदछ । र यो मूल्यांकन गर्न पनि सजिलो छ । लाभान्वितवालालाई विकासको हर्ताकर्ता बनाएर यसले उच्चस्तरको सशक्तिकरण, स्वामित्व र सक्रिय सहभागिता प्रदान गर्दछ । दिगो सुधारका लागि स्थानिय स्वामित्व र सहभागिताको विकल्प छैन । अर्कोतर्फ विदेशी नमूना र पूर्वाग्रही धारणाबाट आएका विकासलक्ष्य, सूचकहरू योजनाहरू भन्दा मानव अधिकारका संयन्त्रमा सुनिश्चित गरिएका अधिकारगत विधिहरू पहुँचयोग्य छन् । यसले सर्व स्विकार्य विकासको रूप प्रदान गर्दछ । यसो गरिएमा विकास परियोजनाका वेफाइदाका विरुद्ध सुरक्षा प्रदान गर्न सकिन्छ । किनकि अधिकारमुखी दृष्टिकोणले विकास योजना, नीति तथा परियोजना सुरक्षाका उपायलाई समावेश गर्दछ । त्यसैले जनताको अधिकारप्रति बढि जवाफदेही बनाउन विकासको अधिकार अवधारणा मूल मन्त्र हो । सरकारले सन्धि महासन्धि, शिखर सम्मेलन, घोषणापत्र मार्फत व्यक्त गरेका प्रतिबद्धता अनुरूप काम गर्न माग गर्ने अवसर यसले नागरिक समाजलाई दिन्छ ।

यो अवधारणा अनुसार हाम्रा विकास सम्बन्धी नीति र योजनाहरू तर्जुमा हुन सकेका छैनन् । दशौं योजना अन्ततिर हामी आइसकेका छौं । राष्ट्रिय योजना आयोगले ११ औं योजनाको तर्जुमा प्रक्या सुरु गर्दछ । अतः अब बन्ने राष्ट्रिय योजना अधिकारमुखी अवधारणामा आधारित हुनुपर्दछ । यसका लागि राष्ट्रिय तहमा वहस सञ्चालन गर्न आवश्यक छ । अधिकारमुखि अवधारणामा आधारित विकासको दावी गर्न जनतालाई सक्षम बनाउनु राज्य र नागरिक समाज दुवैको दायित्व हो । साथै बहुराष्ट्रिय कम्पनी र विदेशी दाताहरूले हाम्रा राष्ट्रिय नीति र योजनामा पार्ने प्रभावलाई पनि उच्च तहमा मूल्यांकन र खवरदारी गर्नुपर्छ ।

अब विकासलाई अधिकार आधार अवधारण अनुसार बहस चलाइनुपर्दछ । स्थानिय तहका जनताले विकास हाम्रो अधिकार हो भनी दावि गर्नुपर्दछ । विकासको वृहत् प्रकृत्यामा जनताको अधिकार अभिभाज्य छ । विकासको मूल प्रवाहबाट अधिकारलाई अलग गर्न सकिदैन । विकासलाई प्रभावकारी र दिगो बनाउनका लागि अधिकार आधार अवधारणाबाट नै सम्भव छ । सरकार, विकास तथा सहयोग नियोग, अन्तर्राष्ट्रिय संस्था वित्तीय प्रतिष्ठान आदिले विकासलाई अधिकार अवधारणा आधारअनुसार सञ्चालन गर्न सक्नुपर्छ किनभने यो उनीहरूको उत्तरदायित्व हो भने जनतालाई अधिकार हो । यो अवधारणाअनुसार सहयोगका आधारभूत उद्देश्यहरूमा जनताका अधिकारहरूलाई व्याख्या गरिनु पर्दछ । स्वास्थ्य, शिक्षा, भोजन, वासस्थान र सामाजिक सुरक्षा आदिलाई विकास र मानव अधिकारबाट अलग गरेर हेर्न सकिदैन । शोषित पीडित, गरिव, अल्पसंख्यक, जातिय भेदभाव र यूद्धका चपेटामा परेका स्थानीय जनताहरूको अधिकारलाई विकास प्रकृत्याका इन्कार गर्न पाइँदैन । अधिकार आधार अवधारणले मात्र वास्तविक साभेदारहरू लाई सम्बोधन गर्दछ र उनीहरूको सहभागिता र सवलीकरणमा जोड दिन्छ । सरकार, अन्तर्राष्ट्रिय नियोग, दाता र अभिजात्य वर्गको इच्छामा विकास प्रकृत्या अघी बस्नु हुदैन । स्थानिय जनताको सहभागितामा, योजना तर्जुमा, अनुगमन, मूल्यांकन, निर्णय र कार्यावन्यनमा विकास सम्पन्न गनुपर्दछ यो उनीहरूको अधिकार हो । तेस्रो विश्वका जनताको अविकासको कारण उनीहरूको शासन प्रकृत्या मात्र होइन । दाता, मानविय सहयोग नियोग, विश्व बैंक, अन्तर्राष्ट्रिय मुद्रा कोष, एसियाली विकास बैंक, विश्व व्यापार संगठन र वहुराष्ट्रि कम्पनी लगायतका निकायहरूका नीति तथा कार्यक्रमहरू पनि अविकासका कारण हुन् किनभने यी निकासहरूले विश्व अर्थतन्त्र र पूँजीवादको हितमा काम गर्दछन् र जनतालाई यस विषयमा छलफल गर्ने, सूचना प्रप्त गर्ने, अनुगमन मूल्यांकन गर्ने र बहस पैरवी गर्ने पूर्ण अधिकार छ ।

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