



LIVELIHOOD ENHANCED HUMAN RIGHTS THROUGH FINANCIAL INCLUSION IN INDIA *

INTRODUCTION

Generally, Development is used in diverse context. Development has many aspects such as social, financial, cultural, political and environmental. Development implies a change that is desirable. In recent time, Human development has become the center of whole development. Development form always should be democratic.

In simple sentence, democratic development means by the people, of the people & for the people. For it is people, both poor and rich, as individuals and in groups, who create human development. So, human development empowers people to be responsible and innovative actors. Because human development views people not as passive victims but as entrepreneurs and active agents, it helps people to help themselves.

Human development is defined as the process of enlarging people's freedoms and opportunities and improving their well-being. Human development is about the real freedom ordinary people have to decide who to be, what to do, and how to live.

Human development remains a powerful and deeply necessary concept. It is powerful because it succinctly clarifies the ends and means of development and crystallizes development objectives, processes and principles. It is deeply needed because while the dominant paradigm guiding development has evolved significantly, it is still not reliably and consistently focused on human lives.

Human rights are the rights possessed by all persons, by virtue of their common humanity, to live a life of freedom and dignity. They give all people moral claims on the behavior of individuals and on the design of social arrangements — and are universal, inalienable and indivisible.¹

According to human development report 2000, Human rights and human development share a common vision and a common purpose—to secure, for every human being, freedom, well-being and dignity. Divided by the cold war, the rights agenda and the development agenda followed parallel tracks. Now converging, their distinct strategies and traditions can bring new strength to the struggle for human freedom. Human Development Report 2000 ... shows how human rights bring principles of accountability and social justice to the process of human development.²

What Is Livelihood?

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¹ UNDP 2000;16

² UNDP 2000, Inside Of Front Cover

Livelihood is started with the civilization of human being, it's not a new concept. In simple sentence, Livelihood refers to their means of securing the basic necessities food, water, air & clothing. In broad sense, livelihood is-

- A set of economic activities involving self employment and or wage employment;
- By using ones endowments (human and material);
- To generate adequate resources(cash or non cash);
- For meeting the requirements of self and household;
- Usually carried out repeatedly and a such become a way of life.

Livelihood directly or indirectly relates to right to work. The word 'life' as encompassed by said article 21 in Indian constitution will it include right to livelihood or right to work or will it can not only bare physical existence. Livelihood is a main part of human development.

Livelihood in Indian constitution-

Part III of the Indian Constitution guarantees "fundamental rights" to all citizens, and some of these, like the right to life (art. 21) and the right to equality (art.14), to all persons. Article 21 of the Constitution of India, a very familiar fundamental right, applicable to all persons under Part III of the Constitution of India. Meaning of term "life" is defined in *Munn v. Illinois*,³, **Field, J.** spoke of the right to life in the following words:

"By the term "life" as here used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye, or the destruction of any other organ of the body through which the soul communicates with outer world."

According to article 21 "No person shall be deprived of his life or personal liberty except according to procedure established by law."

In 1960, the Apex Court was of the view that Article 21 of Indian Constitution does not guarantee right to livelihood.

In Re Sant Ram⁵ a case which arose before Maneka Gandhi, the Supreme Court ruled that the right to livelihood would not fall within the expression "life" in Article 21. The Court said curtly: The argument that the word "life" in Article 21 of the Constitution includes "livelihood" has only to be rejected. The question of livelihood has not in terms been dealt with by Article 21."

Olga Tellis v. Bombay Municipal Corporation,⁶ is case was brought by pavement dwellers to resist eviction of their habitat by the Bombay Municipal Corporation, that the right to livelihood is born out of the right to life, as no person can live without the means of living, that is, the means of livelihood. The Court has observed in this connection: "...the question which we have to consider is whether the right to life includes the right to livelihood. We see only one answer to that question, namely, that it does. The sweep of the right to life conferred by Article 21 is wide and far-reaching. It does not mean, merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life an equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood."

Right to work has not yet been recognized as a Fundamental Right. In **Secretary, State of Karnataka v. Umadevi (3)**⁸, the argument of infringement on an expansive interpretation of Article 21 i.e., the right of employment was not accepted by the Supreme Court and the reason for

³ 94US 11

⁴ Bakshi, P.M, The Indian Constitution of India

⁵, AIR 1960 SC 932

⁶ AIR 1986 SC 180

⁷ AIR 2006 SC 1806

that was amongst others, that the employees accepted the employment on their own violation and with eyes open as to the nature their employment. The Court also rejected the argument that the right to life under Article 21 would include the right of employment at the present point of time. Besides the above article ,many provision enshrined in the constitution of India. The constitution of India lend support to the livelihood under this following ;

Article 14, fundamental rights; right to equality states “the state shall not any person equality before the laws within the territory of India”

Subject to reasonable restriction on the exercise of the rights conferred by the said sub-clauses.

Article 19(1)(g), of the Indian constitution states that all citizens have the fundamental rights, to practice any profession or to carry any occupation, trade or business”

Article 38(2),states, the state shall in particular, strive to minimize the inequalities in income & Endeavour to eliminate inequalities in status, facilities, and opportunity not only amongst individuals but also amongst group of people residing in different area or engaged in different vocations.

Article 39,states,the state shall in particular, directs its policy towards securing , that the citizens, men and women, equally have the right to an adequate means of livelihood.

Article 41, states, the state shall, within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public Assistance in the case of unemployment ,old age, sickness and disablement and in other cases of underserved want.

The street vendor bill is an another initiation to livelihood promotion. Street vendor is a ubiquitous sight on Indian street. Street vendor bill, 2013 which was mostly recently passed by lok sabha of Indian parliament, and is currently pending consideration in the rajya sabha. From selling food to modern electronic appliances, street vendors brave the natural elements to make a living. Street vending may sometimes even become a collective project, with an entire family chip- ping in to realize a higher volume of sale. Street vendors might be stationery, peripatetic, or operate from transportation devices,⁹

Case study under the article 19 to livelihood

Sodan Singh & Others Vs New Delhi Municipal Corporation¹⁰ 1989,quoted in The judgment referred to the fact that as per the Constitution of India Article 19 (1) the street vendors had a right to practice their trade. However, as per Article 19 (6) the state had the right to subject this right to reasonable restrictions, but as street vendors cannot chose the place to sell on the streets, the duty to delineate the place of work for them falls on the state (Lahiri 1998). The Supreme Court ruled that "The right to carry on trade or business mentioned in Article 19(1) of the Constitution, on street pavement, if properly regulated cannot be denied on the ground **that the street areas meant exclusively for passing or re-passing and no other use.**

LEGAL REGULATION OF CONDITIONS TO WORK; Indian law provides many provision to own citizens. it has classified in three section such as;

- (a) Laws which apply to all sections of the unorganized sector labour;
 - 1. The Equal Remuneration Act, 1976
 - 2. The Bonded Labour System (Abolition) Act, 1976
- (b) law which apply some sections of the unorganized sector labour ;
- (c) Minimum Wages Act, 1948
- (d) Child Labour (Prohibition and Regulation) Act, 1986
- (e) Dangerous Machines (Regulation) Act, 1983

⁹ Maharashtra Ekta Hawkers Union V. Municipal Corporation Civil Appeal Nos. 4156–4157 Of 2002 (Supreme Court Of India)

¹⁰ IDS 2006

(f) The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

(g) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979

(h) Motor Transport Workers Act, 1961

(i) Sales Promotion Employees (Conditions of Services) Act, 1976

(j) Sales Promotion Employees (Conditions of Services) Act, 1976

Livelihood, Human Rights & Financial Inclusion

Human right is a right to be accepted within a functioning financial system irrespective of one's financial position, and to have access to legitimate financial services such as a bank account, saving facilities, and borrowing facilities on reasonable terms, all provisions which expand persons' opportunities to shape their own lives.

How livelihood, financial inclusion, and human rights interlinked each-other?

Financial inclusion has proved to be the best intervention in removing chronic poverty amongst women and weaker sections to participate in economic activity. Financial Inclusion today is high on the international agenda.

Poverty eradication and financial inclusion are intertwined themes that occupy a central place in the current Millennium Development Goals of the United Nations. They will continue to dominate the post-2015 UN global agenda on international migration and development. Financial inclusion is a fundamental human right that has a profound impact on the lives of billions of people on this planet.¹¹ The United Nations estimates that 10–12 per cent of the world's population, over 600 million people, has some form of disability.¹² Of this total, 80 per cent live in low-income countries.¹³ Financial inclusion is a critical enabler and accelerator of equitable economic growth, job creation, social and human development. It is a cross-cutting issue.

Human rights in practice have been defined to include all aspects of dignified human existence which make every human being an equal member of the human family. Human dignity is the essence of human rights. It is the wide appreciation of the range of dignity of the individual which defines the true scope of human rights. There are six features of human rights;

- (i) People have rights simply because they are human;
- (ii) Human rights are universal;
- (iii) Human rights treat all peoples as equal;
- (iv) These rights belong primarily to individuals
- (v) Human rights encompasses the fundamental principles of humanity;
- (vi) The promotion and protection of human rights is not limited to national boundaries but rather stipulates certain ideas that apply the world over.

The UNEP Inquiry was launched in January 2014 to explore how the rules that govern the financial system – standards, metrics, incentives, regulations – can better mobilize capital for sustainable development. The Inquiry will present policy options at the end of 2015 suggesting how capital can be steered from resource-intensive assets towards an inclusive, green economy.¹⁴

Universal access to financial services by 2030 is within reach that means that all households and businesses have access to and can effectively use a wide range of financial services as a

¹¹ Handicap International. 'Lessons Learned Workshop: A review of assistance programs for war wounded and other persons with disabilities living in mine-affected countries.' Paris, 25-28 May, 2004

¹³ UNSGA for inclusive finance for development

¹⁴ The human rights dimensions of a financial system ; meeting reports

reasonable cost provided by responsible and sustainable institutions that operate in a well regulated environment 90% usage of formal accounts is achievable, based on targets some countries have set.¹⁵

The sustainable livelihoods idea was first introduced by the Brundtland Commission on Environment and Development as a way of linking socioeconomic and ecological considerations in a cohesive, policy-relevant structure. The 1992 United Nations Conference on Environment and Development (UNCED) expanded the concept, especially in the context of Agenda 21, and advocated for the achievement of sustainable livelihoods as a broad goal for poverty eradication.

In a classic 1992 paper, Sustainable Rural Livelihoods: Practical concepts for the 21st Century, Robert Chambers and Gordon Conway proposed the following composite definition of a sustainable rural livelihood:

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 short and long term.¹⁶

Some development indicators determined by UN that go beyond the MDG framework;

There are many indicators determined by un that go beyond the MDG framework that are such as; Measuring inequalities; Indicators of population group; Indicators linking sustainability and development; Subjective indicators of well being; Indicators or governance, rule of law, peace building violence and conflict, human rights; etc

Table; Declining the net capital formation

Poverty is the main barrier to the any development issues. because despite the country’s meteoric GDP growth rate (about 9%),poverty in India is still pervasive; especially in rural areas where 70% of India’s 1.2 billion population live.

Year	saving (% of GDP)	capital formation (% of GDP)	net capital formation	GDP Growth
2007-08	36.8	38.1	-1.3	9.3
2008-09	32	34.3	-2.3	6.7
2009-10	33.7	36.5	-2.8	8.6
2010-11	34	36.8	-2.8	9.3
2011-12	30.8	35	-4.2	6.2

Source; SAGE report on state livelihood in India,2013

India’s government is well aware that poverty is a giant barrier to overcome if it is to fully develop the nation.

A wide range of anti-poverty policies have been introduced since the 1950s, which nonetheless look effect after 20 years of implementation. if decline in poverty went from 60% to 35% between the 70s and the early 90s, globalisation and liberalization policies have made this trend go backwards in 90s.

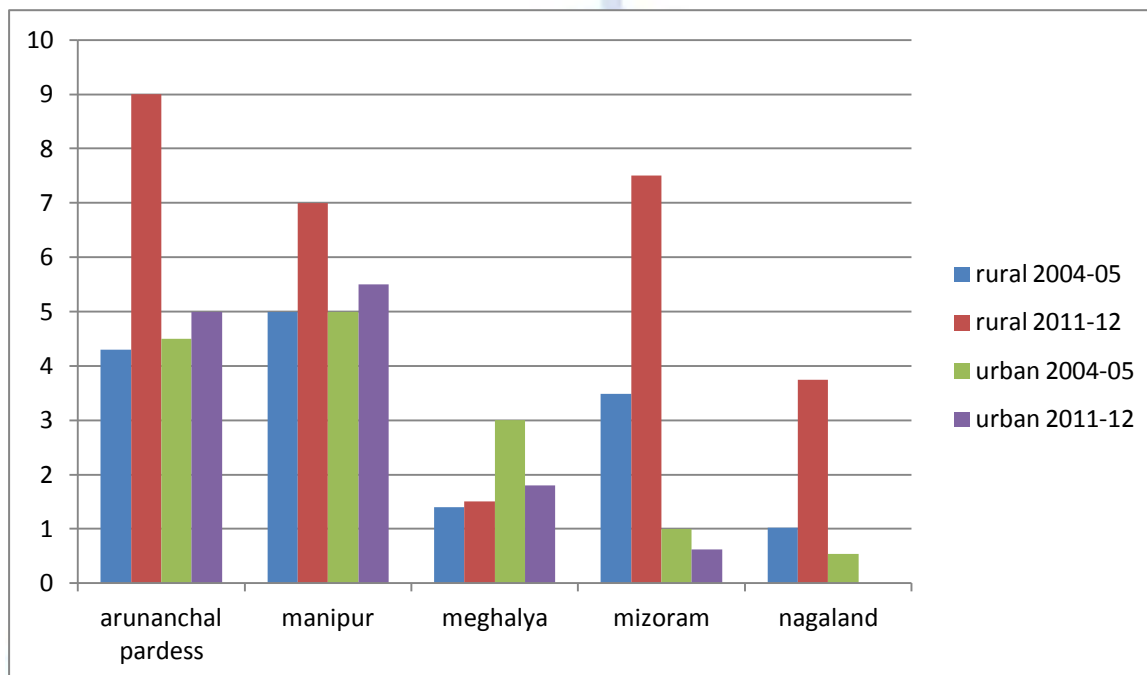
The estimate of ‘headcount’ is crucial because so many benefits and schemes hang on it. According to the newly defined poverty line, those with a monthly per capita income of less than `1,000 in urban and `816 in rural areas (or `33.3 and `27.2 per day, respectively) fall below the poverty line. Based on this new line, 13.7 per cent of urban and 25.7 per cent of rural population

¹⁶ Chambers, Robert and Conway ,Robert Sustainable Rural Livelihoods: Practical concepts for the 21st Century,

are poor. Using the new figures, the overall poverty ratio (proportion of poor in total population) is said to have declined from 37.2 per cent in 2004–05 to 21.9 per cent 2011–12, an impressive 15.3 per cent point fall over only seven years¹⁷.

It is totally clear(see above table), there is clear correlation between the allover economic growth and investment growth when the economic growth grew at 9 percent, investment was around of 35% of growth The private sector (household and corporate, respectively 14 per cent and 11 per cent of GDP) constitutes the major investor in India. Domestic savings¹⁹ (30.8 per cent of GDP in 2011–12) is the major contributor to capital formation.

States where PGR(Poverty Gap Ratio) did not show a steady declining trend during 2004-12



	Arunachal pardesh	manipur	meghalaya	mizoram	nagaland
rural2004-05	7.49	5.71	1.4	3.48	1.02
Rural2011-12	9.79	6.64	1.58	7.51	3.75
Urban2004-05	4.64	5.12	2.8	1	0.58
Urban 2011-12	4.93	6.14	1.46	0.62	1.76

Sources; millennium development goals India country report planning commission(now renamed as niti ayog)

In recent times, India one of the growing economies in the world has witnessed a flurry of activity in the arena mergers and acquisition. The Poverty Gap Ratio is the gap by which mean consumption of the poor below

¹⁷ Sage ; state of India's livelihood report 2013(cited from) Methodology of Suresh Tendulkar Committee to estimate poverty rate used the National Sample Survey Organization (NSSO) consumption expenditure data for 2011–12. Poverty line divides the poor from the non-poor, puts a price on the minimum required consumption levels of food, clothing, shelter, fuel, and health care, etc. Tendulkar's estimation does not consider the expenditure on health and education, both of which are expected to be provided by the state. But, now 80 per cent of the health care is with private and education is increasingly moving to the private

poverty line falls short of the poverty line. It indicates the depth of poverty; the more the PGR, the worse is the condition of the poor. While the number of poor people indicates spread of poverty, PGR indicates the depth. During 2004-05 to 2011-12, PGR also reduced in both rural and urban areas. While the rural PGR declined from 9.64 in 2004-05 to 5.05 in 2011-12 in the urban areas it declined from 6.08 to 2.70 during the same period. A nearly 50% decline in PGR both in rural and urban areas during 2004-05 to 2011-12, reflects that the conditions of poor have improved both in urban and rural areas.¹⁸

The UNEP Inquiry has engaged in a number of international collaborations with organizations such as the OECD and the World Bank and worked at the country level to understand real world challenges, innovations and prospects: Bangladesh, Brazil, China, Colombia, EU, India, Indonesia, Kenya, Switzerland, South Africa, UK and the USA. The UNEP inquiry has look also critical sectors within the financial system such as banking ,insurance, and institutional investment, and also developed scenarios setting out diverse pathways to achieve sustainability.

It has produced a series of progress reports including ‘Aligning the Financial System with Sustainable Development - Pathways to Scale.’ It will present its final report at the end of 2015. The recent global financial crisis created severe human rights impacts across the world, such as loss of employment, income, and access to food, housing, education, healthcare, and public welfare services. Those already poor were affected the most.

A sustainable financial system is clearly one that operates with integrity, equitably and inclusively, while avoiding harm to people and their livelihoods. In particular, how would a human rights focused examination of the rules of financial systems bring different perspectives that would better promote the goal of sustainable development.

An all-inclusive financial system would certainly enhance the efficiency and welfare by providing avenues for secured and safe saving practices and by facilitating a whole range of efficient financial services. However, merely the inclusion of low- income groups (financially) without addressing the structural causes that result in the failure of livelihoods (an important component of human development) cannot help¹⁹. Without this, financial inclusion would ultimately result in greater exclusion, especially in agriculture/allied activities, and there would be a vicious cycle of debt practices. Thus, financial inclusion cannot be restricted merely to the opening of savings accounts and/or providing credit for consumption/consumer spending.

Conclusion

Past Human Development Reports have expanded development discourse beyond its focus on economic growth to consider human development and people’s basic needs, such as their standard of living, education, and health care. It is now universally accepted that these deferent dimensions of human development—livelihood, education, and health—play important roles in shaping personal well being. However, these markers of individual well being are embedded in wider networks of family and kin groups, castes, tribes, and religious identities, the political economy of villages and towns, and the direct and indirect actions of the state and civic society.

LAW MANTRA
www.lawmantra.co.in

¹⁸ Millennium development goals India country report 2015 ;social statistical division ministry of statistic and program implementation government of India/www.mospi.nic.in

¹⁹ Indian Journal of Human Development