

INTERNATIONAL ASSISTANCE AND POLITICS ABOUT ECONOMIC DEVELOPMENT

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1. POLITICAL HISTORY OF COLONY AND DEPRIVATION

The world remained divided between ‘colony and colonizer’ until the Second World War. The colonizer, the western empires such as Great Britain, France, Belgium, Spain, Netherland, contested for colonizing the world. For understanding the international politics and the international paradigm of assistance today, we need to reflect back on the history of insights of colony. The following traumatic happenings are worth mentioning.

- a. In 1215 A.D the Great Britain declared the *Magna Carta*, which promised that the king would not uses authority of arrest without issuing an order of warrant and if he did so the arrestee would be brought immediately before the court. In 1679 the Bill of Rights was promulgated which granted the fundamental freedoms and liberties of people as inviolable rights of people. In the mean time, particularly in subsequent era of the Bill of Rights, the Great Britain moved with his huge maritime transportation and control capacity to make the world brought under his colonial rule. The East India Company was established and through its occupation of the world was carried out. The main objective behind this colonial occupation was to economically exploit the colonized people. Plundering, extorting, pillaging, and amassing wealth in the home. Thousands of people were killed, the mass was enslaved, and the native people were treated like animals. Particularly south Asia was exploited by trafficking people to many different continents and making them slaves; the practice of cultivation, cannabis was for extracting hallucinating drugs; people were forced to cultivate opium; food scarcity was intentionally created so that people would volunteer to be enslaved. Thus the poverty in south Asia was created, perpetuated and institutionalized by the British colonial regime.
- b. The French empire, in 1779, declared *“the declaration of rights of citizens and men”* as the greatest achievement of the human civilization but right after this declaration France invaded the Indo-China. They ruled here ruthlessly and inhumanely. People were starved, feminized, enslaved.
- c. In the Latin America the Spanish empire did exactly the same Britain and France did in South Asia and Indo-China respectively. Spain colonized Philippines. France and the Great Britain competed for colonizing China, Africa, and Latin America.
- d. These colonizing power, among other things, committed the following crimes against human civilization:
 - i. Introduced a inhuman practice of trade on slaves,
 - ii. Introduced drug addiction by popularizing opium and cocaine,
 - iii. Introduced prostitution as a commodity, and trafficking of women and children for use them in prostitution, and
- iv. Introduced habits of perpetuating archaic traditional behaviors among people in order to prevent them from civilizing.

These historical facts of colonization explicable explain the despicable, ponderous and bashful practices of colonial rule thus reducing the mass of people merely as human animals, and spreading poverty as crossing machine of human extermination. So, it shows that poverty is a outcome of massive violation of human rights. This has resulted in the following:

- a. Deprivation of the mass without access to development of individual autonomy (*Protected Sphere*), and suffering from degraded *Vector of Life*,
- b. Social exclusion of the mass with stigma of barbarians uncivilized, ignorant masses incapable of ruling themselves with modernity,
- c. Backwardness in thinking stricken by superstitious beliefs such as: distinctions between men and women, fatalism and living by mercy of deities.

In sixteenth century the Europe went through renaissance and reformation along with enlightenment. This change brought science and technology into life of people to ease the living in the extremities of nature. Asia, Africa and Latin America, however, were pushed into a state of *Regressive Status quo* by colonial rule. So, these parts of the world continued to suffer from the vices of backwardness, social exclusion and deprivations. Again the history with no doubt tells us that the poverty was a cursing and crushing gift of the colonial rule.

2. CONTEMPORARY INTERNATIONAL POLITICS

Amidst this politics was engendered a theory of 'generation of human rights' significantly devaluing the importance of economic and social rights. The impact of the theory is so wider that the significance of economic and social rights is often ignored even by the UN. This is spectacular in the UN Millennium Development Goals (MDGs) as well; as it fails to underpin human rights values in those development programs. Conceivably, it can be argued that even the UN has been influenced by the contemporary political theory that 'human rights and development' are two different concepts or entities. Spectacularly, the UN paid less attention to human rights while designing, developing and implementing the MDGs.

The consequence of the politics of divisibility of human rights and generation theory was costly; the governments from developing countries never ever considered about their accountability to the devastation being continuously faced by human lives due to phenomenal poverty and deprivation. The developed countries, on the other hand, overtly rejected to take responsibility to reduce the cost on defense and armaments and to divert the same to address the crisis of poverty in the developing countries. The poverty thus continued as if 'usual phenomenon' having no connection to human rights at all. The politics of 'rejecting the right to development as a human right' prompted by inhuman face of capitalism is thus largely responsible for continuity of massive violation of human rights in developing countries.

Does the international community today acknowledge the universal right to development? The answer is bound to be skeptical. While the *Declaration on the Right to Development*, 1986, referring to the binding law such as ICCPR and ICESCR, has stated that right to development is inalienable human

rights, the ground for skepticism looms large. When the Declaration on the Right to Development was adopted, the United States of America did cast a negative vote (For a discussion on the US position on the Declaration on the Right to development. Other eight countries abstained. They were Denmark, Finland, The Federal Republic of Germany, Iceland, Israel, Japan, and the United Kingdom.

Nonetheless, some developments have followed recently in this regard. It seems that the realization that poverty and deprivation is a grave violation of human rights is increasing. The UN *Declaration on the Right to Development* is the most visible example of this development. More recently, the *Millennium Declaration* (2000) was unanimously adopted by the UN through a largest-ever gathering of world leaders (189 member-states, most of them represented by heads of State and Government).² In the declaration, they pledged to effectively work to free fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected to. It included a promise to make the right to development a reality for everyone and to liberate the entire human race from want.³

The *Millennium Development Goals* are the concrete targets accompanying this general pledge.⁴ While the language of human rights could be specifically used,⁵ it can be assumed that human rights and development are closely linked and thus MDGs are not fully dry of human rights notions. However, to approach development from the perspective of legally binding human rights is not an approach accepted by it. Unfortunately enough, two years after the declaration of the MDGs, the US Government made a very controversial reservation to the declaration on food made during the World Food Summit held in Rome on 10-13 June 2002.⁶ It viewed that the attainment of the right to an adequate standard of living is a goal or aspiration to be realized progressively so that does not give rise to any international obligation.⁷ This argument is not only deceptive to international

². United Nation Millennium Declaration, resolution adopted by the United Nations General Assembly, 18 September 2000. UN DOC. A/RES/55/2 UN Press Release, 'World Leaders adopt 'United Nations Millennium Declaration' at conclusion of Extraordinary Three-Day Summit, 8 September 2000, UN DOC. GA/9758

³. *Millennium Declaration*, para 11

⁴. Although these goals are not legally binding, Alston has argued that most of the goals reflect customary international law. He states that 'at least some of the MDGs reflect norms of customary international law... it can be observed that the case would be the most easily made in relation to the first six of the Goals, and parts at least of the Seventh would be also a strong candidates. See at Alston, 'Ships Passing in the Night: The Current State of Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals' in the *Human Rights Quarterly*, Vol. 27 (2005), no. 3

⁵. For an interesting paper on a human rights perspective on the Millennium Development Goals (and a criticism of the fact that human rights did not figure prominently in these goals), see Alston, "A Human Rights Perspective on the Millennium Goals, paper written in 2004, as advice for the Millennium Projects Task Force on Poverty and Economic Development.

⁶. For the Original Summit see, <http://www.fao.org/wfs> and for the follow-up conferences, see <http://www.fao.org/Worldfoodsummit>

⁷. The reservation can be found in Part One of the Report of the World Food Summit: five years later, Rome 10-13 June 2002, p. 32. It reads" "The United States wishes to attach the following reservation to the Declaration of the World Food Summit... The United States believes that the issue of adequate food can only be viewed in the context of the right to a standard of living adequate for health and well-being as set forth in the Universal Declaration of Human Rights, which includes the opportunity to secure food, clothing, housing, medical care and necessary social services. Further, the United States believes that the attainment of the right to an adequate standard of living is a goal or aspiration to be realized progressively that does not give rise to any international

cooperation and obligation of the developed countries to address the problem of poverty, but also a denial to 'share the empathy and humanity' to poor people.

This is how anti-humanity international politics has played a very crucial role to perpetuate the state of hunger in the world. The grotesque state deprivation the millions of people are subjected to live in is, to larger extent, an 'outcome of the attitude of the developed countries to neglect the responsibility of dealing with the crisis of poverty facing the poor people of the world'. While they have been interested to invest huge resources for 'armament and military' build-up, they overtly arguing to deny that 'the right to food incurs international obligation'. As a matter of fact, in the South Asian region and in many other parts of the world as well, the frequencies of the stories of poverty related deaths, malnourishment and a disability are extremely higher. Such stories are with no doubt an utter violation of human rights ostensibly committed by States through pursuing a 'wrong or erroneous theory of divisibility of human rights which is basically prompted by an idea of discarding the economic and social rights as human rights'.

3. SOUTH ASIAN SCENARIO OF CONSEQUENCE OF INTERPLAY OF HUMAN RIGHTS VIOLATION, DEPRIVATION OF ACCESS TO DEVELOPMENT OPPORTUNITIES AND ILL-INTERNATIONAL POLITICS AND GOVERNANCE

This article deals with actual scenario of the poverty, deprivation and human rights in South Asia, and their effects on institutionalization of democracy in South Asian nations. This article is envisioned to disprove the argument that 'the resource unavailability is making trouble in enforcement of economic and social rights'. In fact, it is anti-poor human rights politics of the powerful countries and unaccountable governments of the developing counters are the causes of grotesque violation of human rights across the world. The discussion below will exemplify the statement. This part of the article will implicitly plead for concentration on 'securing good or progressive governance system' for rescuing huge population of people from state poverty and deprivation, and hence to protect human rights.

4. PERCEIVED THREAT OF NATIONAL SECURITY, INCREASED MILITARY SPENDING, RAMPANT BUREAUCRATIC AND POLITICAL CORRUPTION AND IMPACTS ON HUMAN DEVELOPMENT AND SECURITY

obligation or any domestic legal entitlement, and does not diminish the responsibilities of national governments towards their citizens”.

The main source of the mammoth poverty⁸ and deprivation, violence accompanied by massive violation of human rights across the world lies on States' incessant quest for power, militarization and political supremacy. Even the era following the cold war has made no spectacular improvement in this regard. The immensely amplified globalization has resulted in increasing control of international economic order resulting in massive price hike and unbelievably extended consumerism.⁹ Both of these phenomena have made the lives of poor people further deplorable.¹⁰ The drive of mobilizing scarce resources to boost up militarization and national or regional security systems has been intensified even after the cessation of so-called cold war. Since September 11 (2001), the world has seen a dramatic change in the attitudes of the USA and its allies with regard to 'military or weapon-based security spectrum'. The massive scale of terrorist attacks and ensuing fear and insecurity in its aftermath, the emergency measures taken to prevent similar incidents in future and restrictions on freedoms allegedly to deal with the threat of terrorism and the global economic recession have collectively posed a great uncertainty about the future. These negative developments have diverted larger part of the resources to military and security build-ups, and have adversely affected the prospects of changes in the lives of the poor people of the world. Bertrand Ramcharan rightly says, "In all probability the plight of the developing countries has worsened and risk of internal conflicts has heightened".¹¹ Both the development and freedoms have been threatened, the linkage of which is indispensable for progress of the human society.¹² The global military and

⁸. Poverty is defined as denial of opportunities and fulfillment of human potential. Poverty and inequality are closely related. The trends across the world show that inequality is rising worldwide in recent decades at both national and international level. More than 80 percent of the world population lives in countries where income differentials are widening. According to the United Nations Development Program, the poorest 40 percent of the world population account for only 5 percent of global income. On the other hand, the richest 20 percent account for 75 percent of the world income. The scenario presents a gloomy picture of the modern international economic order. The end of colonialism and imperialism fared no good for the poor population and poor countries. Failure to deeply realize the 'human dignity and security' of poor population is the major cause of poverty worldwide. According to most recent estimates of the Food and Agriculture Organization of the United Nations, 2009, the number of hungry people worldwide has reached 963 million, or roughly 15 percent of the world population. It is an increment by 142 million over the figure of 1990-92. See, Economic Survey, 2009-10; Pakistan, Ch. 9

⁹. Globalization in recent times has occurred as 'irreversible phenomenon'. It has both the challenges and prospects for developing countries. It may, as argued by Mahbub ul Haq in a brainstorming session of UNDP in 1998, help developing countries to gain if they are able to accelerate their human development, good governance and investment on infrastructure. He said, "If globalization was superimposed on a poorly-educated and poorly-trained labor force with poor system of governance and infrastructure, it would not lead to growth nor reduce poverty". See, *Human Development in South Asia: Globalization and Development*, The Mahbub ul Haq Human Development Center, Pakistan; Oxford University Press.

¹⁰. As reported by *Human Development in South Asia: Globalization and Development*, (2001), the globalization has a very negative impact on lives of poor population. With intensifying globalization trend in South Asia, half a billion people have experienced a decline in their incomes. The benefits of economic growth that did take place were limited to a small minority of educated urban population. While the globalization driven investment is eventually expected to cause rise on income of all population, the transition is painful and devastating to poor population. The management of globalization in developing countries is thus a challenge in itself. The human development and economic development cannot be separated, if the advantages of the globalization have to reach the poor population. Unfortunately, the larger part of the resources in developing countries is going not to the 'human development sector', hence depriving the massive poor population from benefits of the economic growth.

¹¹. 2002, *Human Rights and Human Security*; International Studies in Human Rights Vol. 70: Kluwer Law International, p. 1.

¹². In his important work, Prof. Amratya Sen has coherently presented the linkages between freedom and development. Derogation of one will automatically affect the posture of other. This theory in the present world order has been plausibly established. No democracy can thrive in absentia of development and no development

security expenditure has sharply increased and the accessibility of the world poor population to basic needs has declined. The seeming development obstruction has posed increased threats to human dignity and security of the 'mammoth poor population across the world'.

The global institutional order is one of major causes for 'continuity of the deaths of millions of people by poverty'. The global institutional order allows for inequality among people from developed and developing countries. As pointed out by Thomas Pogge, there are at least three sources of the international institutional order that engender poverty and inequality among people. The first source consists of 'international economic bodies, such as the the World Trade Organization, which has enabled the exacerbation of deaths from global poverty through monetary agreements that favor affluent States at the cost of poor States.¹³ The second source is protectionist exemptions insisted upon by affluent States which have 'had a huge impact on employment, incomes, economic growth, and tax revenues in the developing countries where many live in the brink of a starvation.¹⁴ The third source concerns with 'international resource privilege' whereby dictator of the developing countries sell large swathes of national resources and incur foreboding debts, enhancing themselves at the great expenses of the welfare of the people.¹⁵ Beyond these three sources, a newly identified source is 'culture of over-expenditure in luxury of managers, consultants and experts ' by projects supported by the bilateral or multi-lateral bodies. The high-cost lifestyle of expatriates is copied by the rulers, and managers of the national bodies. This culture robs huge nascent resources, which otherwise could be used for people's basic needs.¹⁶ In these ways, the global international order contributes to the global poverty, and hence violation of human rights.

The south Asian region presents the gloomiest picture of human development situation, poverty, poverty related human miseries, and safeguard of human rights. The problem of internal conflicts, grotesque poverty and degrading state of political accountability are casting lives of millions of people in a state of chaos. The South Asian nations, by contrast to the painful scenario of human rights violation, poverty and deprivation, are increasingly engaged in building military and weaponry-based 'national security system' and are flushing increasingly huge amount of financial resource ¹⁷ to sustain their military outfits.¹⁸ While millions of poor people in South Asia are dying

can be meaningful until and unless the poverty engulfing the massive population is addressed. For further discussion see Amratya Sen, 1999, *Development as Freedom*; Oxford University Press.

¹³. Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reform*; Cambridge: Polity 2002, p. 19

¹⁴. Ibid, p. 18

¹⁵. Ibid, pp. 113-14

¹⁶. Nepal is a glaring example. After 1990, the bilateral and multi-lateral international agencies brought a culture of 'lavish life style for expatriate managers, consultants and experts'. The expensive cars, offices and high salary used by international agencies were attractive. The international aids included such luxuries too. Gradually, the luxury was transplanted by national government agencies and non-governmental agencies. This is infamously known as 'Pajero' culture in Nepal. As of now, the culture has been transformed into a 'system of legitimized avarice'. Each Prime Minister, when retired, takes the 'sophisticated car' with him. This culture has not only increased the 'Governmental expenditure' but encouraged 'corruption'.

¹⁷. The defense spending in South Asia is painfully astounding. Even smaller members of South Asian region like Nepal and Sri-Lanka spend huge amount of revenues for sustaining their military outfits. Nepal spends 1.6% of gross domestic products (GDP) in military spending, whereas the economic growth has barely kept pace with its expanding population. With GDP per capita less than \$245, Nepal is economically one of the poorest countries. In 10 years from 1996, Nepal's army increased from 46000 to 96000. A whole new institution called Armed Police Force was also created. Nepal defense budget has reached to 14 billion rupees. Whereas Nepal Needs 50,000 additional primary schools to educate its children, why Nepal has to keep this 96000 army even after the Maoist

due to starvation and lack of basic medicines,¹⁹ the South Asian nations have already mastered in manufacturing superb armament and military technological competence including the one to

conflict has come to an end is an open question (See Kul Chandra Gautam " Arms Down ! For Shared Security" in The Rising Nepal, 2010-08-19-visited on 17-10-2010). On the other hand, Sri-Lanka, another smaller member of the region, has the largest defense budget in South Asia in percentage term. In November 2008, president Rajapaksa promised to raise defense spending by seven percentage to a record \$1.6 billion in 2009 (See Darini Rajasingham Senanayake, 2009. "Win the War and Lose the Peace: Sri-Lanka's War on Terror", Institute of South Asian Studies (ISAS), National University of Singapore: Website www.isas.nus.edu.sg- visited on 17-10-2010). The defense budget of India and Pakistan is of course scary. The Indian defense budget in 2010-11 has been swollen to 31.9 billion, a 3.98% increase in budget of 2009-10. The share of the defense budget in GDP is 2.30 percent, and the share of the defense budget in the union government's expenditure is 13.88 percent (See Lexaman Behara, "Budgeting for India's Defense: An Analysis of Defense Budget 2010-11"; March 3, 2010. Institute for Defense Analysis, IDSA-visited on 17-10-2010). While Pakistan's economy is in shambles due to mounting terrorism and unprecedented flood, the defense budget is tremendously increased. In 2009-10, Pakistan's revised defense budget was Rs. 343 billion which which the Government decided to increase by 31 percent- Rs.448 billions (5.3 billion USD) in 2010-11 (See. "Pakistan to Raise defense budget by 31 percent in 2010-11: People Daily China Online, 22 May, 2010-visited 17-10-2010).

- ¹⁸. The army expenditure in South Asia is huge. Arguably huge quantum of scarce financial resource is spent for defense buildup in disregard of a huge size of population is starved and forced to die in lack of food and medicine. Even a small and least developed country like Nepal has been maintaining a military outfit having approximately one hundred thousand personnel despite a clear knowledge that it is strategically no feasible for it to defend its territory by military capability in the face of mammoth forces of India and China. India and Pakistan in South Asia are two countries having largest military outfits in the world. The Indian Army consists of 1,300,000 personnel in active service, 1,200,000 reserve troops, and 200,000 territorial forces. The Pakistan Army has an active force of 620,000 and 528,000 reservists. It has 150,000 para-military troops. These weaponries possessed by these countries are extremely sophisticated and expensive. In 1996 India signed, for instance, an agreement with Russia for the purchase of 90 Su 30 Mk-1 multi-role fighter-bombers. In 2004 a multi-billion license was signed for building additional 140. 240 Su30-Mk-1s. Moreover, 51 Mirage-2000, 60 Mig-29's , 250 old Mig-21's 47 Jaguars and 70 Mig-27's for ground attack are in service, which in total cost billions of dollar. Similarly, Pakistan Air Force has 200 rebuilt Mirage- 3's and Mirage-5's. Additionally, it has 42 F-16's, 150 F-7's. Manufacture of 150 JF 17 Thunder fighters is undertaken by the Pakistan Aeronautical Complex. An order has been placed with China for the purchase of 36 JF-10. These machines are self evident as to how huge scarce resource, which otherwise could be used to save the life of rural poor people, is consumed by the so-called perceived defense threat. Do the South Asian Governments are concerned to their nations for the welfare of people for building a supremacy is an open question for debate. For additional information on South Asian defense outfit, See "Military Balance in South Asia" in South Asia Investor Review, Thursday, January 5, 2009 (URL: <http://southasianinvestor.blogspot.com/2009/01/military-balance-in-south-asia.html>)
- ¹⁹. South Asia has 23% of the world's population and 43% of the world's poor and undernourished people with low life expectancy, low literacy rate and higher degree of gender discrimination and associated death and violence. While India and Pakistan in South Asia have attained a nuclear capacity to for war and their defense, the poor and undernourished population is implausibly huge. Though the number of people below the poverty line may have come down due to robust economic growth in India the life of millions of people is still in a peril. As studies have shown, 79% of unorganized workers, 88% of Schedule Caste and Schedule Tribes, 80% of Backward Population and 84% of Muslims belong to the poor and vulnerable group. Despite high economic growth rate, they have remained poor at a bare subsistence level without any social security, working in the most miserable unhygienic and vulnerable conditions. These poor and vulnerable categories of people are forced to survive on less than Rs. 20.30 per capita per day, which is twice the poverty line or less (See, "India-75% of Indians are poor and vulnerable" in SAAPE Bulletin: A Bulletin of South Asia Alliance for Poverty Eradication, October, 2007: Produced and published by SAAPE Secretariat, Kathmandu. Website- www.saape.org.np and Vikas Adhyayan Kendra, Mumbai. Website -www.vakindia.org : visited on 17-10.2010). As per the report of World Bank's report (Poverty Reduction in Asia), the headcount poverty rate in Nepal is 31 percent. As reported by International Development Research Center (IDRC), in Bangladesh 46.8 percent people live under poverty. Even the recent economic growth in Bangladesh has not led to a major fall in poverty, least of all in rural areas. A 2008 report of Overseas Development Institute (see at www.odi.org.uk), in its 2008 project briefing, reports that around 40% people live in poverty in Bangladesh, of which 25% people are classified by the Government of Bangladesh as

‘manufacture sophisticated long range missiles’ with overwhelming capacity to hit targets at so far distance that are generally beyond the imagination of ordinary human beings.²⁰ Unfortunately, along with the mounting military capacity and spilling over modern military weapons, the South Asia continues to remain the most impoverished part of the world in terms of income as well as human development indicators, such as health and education. The largest absolute number of poor in the world lives in South Asia.²¹ The missiles projects along with other military outfit needs consume a huge amount of 'scarce revenues' which otherwise could be used for human development and basic needs of people such as sustenance, medical care and many other essential services that are necessary for a dignified life. The diversion of recourses to the 'so-called national security' and unproductive sectors such as manufacturing of weapons has seemingly affected the progress in human development by attaining the MDGs.²² The South Asian perspective of human rights and poverty alleviation is marred by the 'unwanted nexus of instable politics, corrupt and hypocrite governance system and military adventurism'. Human rights of people are the worst victims of this nexus.

With no doubt, South Asia holds more enterprises and investment of financial resources to produce weapons and explosive powders than pharmaceuticals.²³ The number of fighter jets with capacity of lethally killing human beings downsizes the number of hospitals to ‘save lives’. Much more fund is spent in order to ‘prepare armed recruits’ than to ‘produce doctors’. The size of women and girl children condemned to trafficking and other forms of sexual violence, and maternity related death is quite larger to those of who are fortunate to graduates from universities”.²⁴

extreme poor and as such are rarely able to take advantage of the productive opportunities emerging from economic growth. However, Bangladesh still spends 1.1% of its GDP in defense spending (Source, World Bank, World Indicators). As per 2007 statistics, South Asia spends 31 756.7 millions for military purposes, of 81% falls with India alone.

20. India has about one hundred nuclear armed ballistic missiles (Agni-I and Agni-II), and Brahmos the new supersonic cruise missile. The ballistic missile inventory of Pakistani army is equally lethal. It comprises Ghauri III and Shaheen III and several other medium range ones. All the ballistic missiles can carry nuclear warheads. The Babur Cruise missile is the new addition to Pakistan's weapon inventory. India and Pakistan possess almost same number of ballistic missiles and warheads. These nuclear weapons and destroy the entire population of South Asia (See "Military Balance in South Asia" in South Asia Investor Review, January 15, 2009).
21. Human Development Report: Poverty and South Asia, 2006; The Mahabub ul Haq Human Development Center; Oxford University Press, p. 2.
22. Less than five mortality rate has declined from 130 deaths per 1000 live births in 1990 to 94 in 2004. The current is not going to meet the targeted goal by 2015. South Asia represents the second highest under five mortality rate in the world. While under five mortality rate declined by more than 50 percent in Nepal, Bangladesh and Sri-Lanka, Pakistan and India, nations with most sophisticated military outfits and weapons, could lower it only by 28 percent (in 2004). South Asia has the second highest maternal mortality ratio in the world and is unlikely to meet the MDG target in this regard. Despite low level of HIV prevalence, South Asia is a high risk region due to high levels of poverty, low literacy and poor awareness levels. Around one in four TB cases occur in South Asia and the growing threat of HIV/AIDS is likely to increase the number. See, *Human Development Report: Poverty and South Asia, 2006*; The Mahabub ul Haq Human Development Center; Oxford University Press, p.2.
23. The poor state of MDG on health is example. South Asia is unlikely to achieve this goal by 2015. See at *Human Development Report: Poverty and South Asia, 2006*; The Mahabub ul Haq Human Development Center; Oxford University Press.
24. South Asia shares 22 percent of the world population, whereas it bears the burden of 43 percent of world poor population. In South Asia, 437 million people live below US \$ 1 a day, while three-fourth of the population survives below US \$ 2 a day. Nearly 237 million people in the region are at risk of dying before the age of 40 years. 867 million people in the region do have no access to basic sanitation. 400 million adult people are unable to read

The people of South Asia are compelled to live in a state of paradox. While South Asia, as many other parts of the world, is crawling to go forward with its slow economic growth rate and human development indices, the governments of South Asia are gruesomely competing for supremacy in building military strength and armament. As noted by Stockholm International Peace Research Institute (SIPRI-2009)²⁵, the military expenditure in South Asia has increased by 3.3 percent in 2008, in real terms to a total of \$ 37.3 billion. It also notes that the Indian military spending-which increased in 2008 by 5 percent (in real terms to \$ 30 billion)-dominates both the total and the trends of the region.²⁶ Over the 10- year period, 1999-2009, the South Asian military expenditure has increased by 45 percent; Sri-Lanka at the rate of 7.7 percent is in lead. The increment related with the mission of dealing with the problem of *Tamil Eelam* separatist movement²⁷, the trend has, however, not gone down even after the defeat of the 'Tigers'. None of the countries in South Asia has in fact reduced the military spending despite urgent need of diverting the available resources to human welfare and development projects. Few more examples will make it clear that 'the prevailing trends are not in favor of poverty eradication' and cut-down of defense budget in South Asia.

The defense expenses in Bangladesh, for instance, constitute the eighth largest sector of public spending. It is bigger to the spending made in the sector of transport and communication, health or public order of security.²⁸ By contrast, South Asia spends only 4.89 to 5.85 percent of GDP in the health sector.²⁹ As reported by World Health Organization in a study, the health spending accounts for only about 2% of the global spending while South Asia contains around 23% percent of the world population. Evidently, South Asia in terms of share in global health spending paradigm falls in the bottom-line. Here, the share of spending on social security is only 0.9 percent. The tax collected from the people meets only 21.8 percent source of the spending. The share of external resource in health spending is meagerly limited to 1.2 percent. The private insurance sector contributes to 0.7 percent. Evidently, 73.4 percent of the total spending in health sector has to be paid by people out of their own pockets.³⁰ It is worth saying here that access to health service for majority of the

and write and 300 million people are undernourished. The challenge of poverty in South Asia is not only huge it is also highly discriminatory against women. Poverty in fact has truly a woman face. These deprivation trends are rising. The issue of so-called national security, a political agenda for perceived threat or mutually created risk, is a priority agenda for governments of South Asia than that of grotesque life conditions of millions of poor and deprived people. For further details; see, The poor state of MDG on health is example. South Asia is unlikely to achieve this goal by 2015. See at *Human Development Report: Poverty and South Asia, 2006*; The Mahabub ul Haq Human Development Center; Oxford University Press.

25. See in Chapter on "Armament, Disarmament and International Security". Available online at www.sipri.org/yearbook/2009/files/SIPRIYBO905.pdf

26. Ibid

27. Ramachandran, S., "Sri-Lanka takes off the gloves", Asia Times, 5 Jan. 2008.

28. The defense spending, in real terms, in 2008-9 is \$ 935 million. It represents 6.4% of the total Government spending. The spending in sector of Transportation and Communication is 6.1 percent. It is 5.9% in health and 5.6% in public order and security. See Ishfaq Ilahi, "Bangladesh defense budget 2008-9: An Analysis", The Daily Star, 07 May, 2008.

29. Jean-Pierre Poullier, et al., "Patterns of Global Health Expenditures: Results of 191 Countries", EIP/HFS/FAR Discussion Paper No. 51; World Health Organization, November 2002. Online see at www.who.int/healthinfo/paper51/pdf

30. Ibid

population in South Asia is merely a dream never to come true as South Asia is a home of 43% poor people of the world.

The statistics on military spending, including investment on armaments and other means of achieving military strategic superiority, makes it plain that the Governments of South Asia are more disturbed by perceived threat of national security. The inhuman problems, miseries and plights of the one third population of the region are a matter of secondary, rather tertiary, concern. While countless of people do have nothing to eat, the South Asian Governments are spending enormous amount of money on building military strength. This mischievous intention along with erroneous policies has institutionalized poverty in South Asia. Human rights, democracy and similar other entities do hardly have meaning for poor people in South Asia.³¹

A series of study have made it clear that approximately one third of the South Asian population is chronically poor, thus being subjected to several forms of deprivation throughout their lives and are most likely to pass it on to their future generations. The figures are astounding. While the region's share in the world population is 23 percent, it contains 43% of the world's poor. Poverty does not mean merely a lacking of income. It also includes other adverse conditions of life, the deprivation or denial of opportunities for living a dignified life being the most important one. In the region there are estimated 460 to 480 million people who are fully deprived of opportunities to survive with adequate food and other basic minimum facilities such as clean drinking water and so on.³²

Poverty manifests itself in state of lacking of income and denial or deprivation of opportunities and in a number of other forms. Results such as premature deaths, poor health, illiteracy and ignorance and ensuing incompetence to enjoy opportunities, poor living conditions and lack of personal security can be attributed to poverty whereas the poverty can be attributed to deprivation of 'basic human rights'. The state of income poverty and deprivation of education are interlinked, and poverty together with gender inequality and social discrimination create a vicious circle of deprivation and subordination. All these attributes are interlinked in numerous ways to form a vicious circle that necessarily create a trap of constant denial of rights and extreme form of disadvantage.³³

³¹. The forms of governments in South Asia are, to some extent, kleptocratic. In a kleptocratic regime, the State is controlled and run for the benefit of an individual or a group-political, social or economical. The individual or group in such a regime pursues not only the wrong or disastrous development policies but also uses powers to transfer a large fraction of society's resources to their private benefits. The political elites of Nepal, for instance, are using a huge amount of money for private luxury such as expensive cars, foreign trips, allowances, gratuities and so on. Each prime minister and home minister on retirement occupies an expensive car for their personal use. Use of exchequer for retaining in power is another form of kleptocracy in Nepal. Distribution of fund from the 'prime ministerial fund' is an example. "Patronism" in politics is what the kleptocracy is rooted in South Asia. The politics is virtually controlled by a family clan or one-man leadership. On nature and approaches of Kleptocracy; see, Daron Acemoglu, et al. "Kleptocracy and Divide-and-Rule: A Model of Personal Rule"; Massachusetts Institute of Technology, Department of Economics Working Paper Series- Working Paper 03-39, July 2003. Available online at <http://ssrn.com/abstract=471828>

³². For detail information, see Human Development in South Asia: A ten Ten-Year Review, The Mahabub ul Haq Human Development Center; Oxford University Press.

³³. Persistent poverty, which is deeply rooted in denial or violation of human rights, is a source of violence or conflict in society. Conflicts on the other hand weaken already depleted resources and further cripple the fragile economy. Decline in GDP is another impact. These factors in turn intensify the conflicts. The results of conflicts are disastrous for poor. Examples in this regard are abounding. In Congo, two full-scale wars erupted in the mid-

The impact of the trap created by the vicious circle of poverty and human rights violation is not only limited to the 'life in the post-birth condition'. The impact is more grotesquely devastating in the pre-birth state. The cruel impact of income poverty and deprivation starts as early as in pre-natal stage. The recent discoveries of the medical science researchers have abundantly confirmed that the 'effect of poverty and deprivation of mother' is devastating to the health of the fetus. The kind and quantity of nutrition the child in pre-natal stage has received in the womb; the pollutants, drugs and infections the fetus is exposed to during the gestation; the mothers' health, stress level and state of mind which she was pregnant with the fetus—all these factors do shape the future of a fetus as a baby and a child and continue to affect him/her all throughout life.³⁴

The pioneers³⁵ of the gestation research have recently with abundance of evidence asserted that the nine months of pre-born state constitutes the most consequential period of human lives, permanently influencing the wiring of the brain and the functioning of organs such as the heart, liver and pancreas. The conditions the fetus encounters in uterus shape his/her susceptibility to diseases, his/her appetite and metabolism, his/her intelligence and temperament in the entire forthcoming life.³⁶ The health researchers of pre-natal conditions have uncovered a series of facts that suggest that the origin of cancer, cardiovascular disease, allergies, asthma, hypertension, diabetes, obesity, mental illness are consequences of adverse conditions the mother of fetus is exposed.³⁷ The poverty and deprivation pose the most negative impacts in the life of the mother. The impact created by the poverty and deprivation is enduring. The state of poverty and deprivation of mother forces a person to be born with diseases or physical and mental deficiencies in his/her entire life. The issue of human rights is thus a matter of concern in human life before he/she is born. This fact is however ignored by the human right jurisprudence.

In a given state of affairs that 'one in every three person' in Asia is forced to survive in a condition of abject poverty and deprivation, the Asian nations are obviously responsible for violation of human rights as they have failed to ensure a 'safe and healthy birth of a child'. Number of deformity, disability and incompetency penetrating persons in their post-born lives are outcomes of the adverse conditions the mothers had been exposed during their pregnancies. It is plain from this

1990s, ultimately resulting in the deaths of an estimated 4 million people. Nepal itself is an example- estimated 14000 people died in a decade long Maoist insurgency. On cycle of poverty, conflict and kleptocracy; see Daron Acemoglu, et al. "Kleptocracy and Divide-and-Rule: A Model of Personal Rule"; Massachusetts Institute of Technology, Department of Economics Working Paper Series- Working Paper 03-39, July 2003. Available online at <http://ssrn.com/abstract=471828>

³⁴. See, Paul, Annie Murphy. "Cancer. Heart disease. Obesity. Depression. Scientists can now trace health to the nine months before birth" in TIME, October 4, 2010.

³⁵. David Barker, a British Physician, two decades ago, noticed an odd correlation between poorest regions of the England and Wales and the highest rates of heart diseases. His investigation after comparing the adult health of some 15,000 individuals with their birth weight, he discovered an unexpected link between small birth size—often an indication of poor pre-natal nutrition, and heart disease in middle age. Professor John Karl, at SUNY Downstate Medical Center in New York, found that the metabolism system of a child was made by his/her pre-natal experience. The mother's condition of health was determining factor for this. Poor mother transferred her poverty to her child in womb. Daniel Benysshak, a medical anthropologist at University of Nevada at Las Vegas, found that some simple changes made during the pregnancy could reduce the offspring's risk for diabetes. See Ibid.

³⁶. See, Paul, Annie Murphy. "Cancer. Heart disease. Obesity. Depression. Scientists can now trace health to the nine months before birth" in TIME, October 4, 2010.

³⁷. Ibid.

fact that the Governments of South Asia, by their wrong attitude, policies and actions, which lead them to spend more money on military installations and strategic superiority missions than food and health of their citizens, are forcing millions of children to come out in this world with poverty inherited defects and diseases causing serious violation of human rights. It implies that the violation of human rights is not only associated with the proper treatment in post-natal stage, it is also equally associated with adequate facilities and good take care of mothers during their pregnancy. The right of a child to grow as a healthy person is thus related with right of mother to good food, shelter, health and other rights.³⁸

The perceived threat of security and ensuing military spending is a major cause behind persistence of the chronic poverty in South Asia. The security threat in fact is a hoax used by the Governments³⁹ to 'legitimize the spending', which is of course a rich source for corruption—the bigger the military spending, the greater the opportunity for accumulation of wealth by 'commission' or 'other forms of transactions'. Poverty thus can be attributed to the 'kleptocratic nature of the Governments in South Asia'.⁴⁰

5. RECENT ECONOMIC GROWTH IN SOUTH ASIA AND ITS IMPACTS ON LIVES OF POOR PEOPLE

Abundance of reports from national governments and world organizations like Asian Development Bank and World Banks have described that South Asia is well established on a high economic growth path, with strong and improving macroeconomic fundamentals. In statistics, the over description may be true. The life of people in reality is, however, implausibly different. As Human Development Report in South Asia, 2006, has rightly noted, "South Asia remains the most impoverished region in the world in terms of income as well as human development indicators, such as health and education". While economic growth rate is supposedly inclining, the region is known to have the largest absolute number of poor in the world'. South Asia is a home of 43 percent of the

³⁸. In a village, the writer encountered a poverty stricken family with three children all with acute sickness. The mother had given birth a number of child many of who died before age of five. This is a scenario of many Asian poor villages. Children are born with mental and physical defects. After birth, they will not be able obtain nutritious food and proper treatment. Feeding their mothers will have no meaning as the mothers have no nutritious food to impart them nutrition. If they survive somehow, they will not have opportunity to go to school. If they are girls, they will be the victims of 'patriarchal customs' and will be forced to get married and become pregnant prematurely, and, many of them, ultimately will die pregnant or at childbirth. In Nepal, as reports have stated, about 250 mother in one hundred thousand die during pregnancy and childbirth. Source, Ministry of Health, Nepal Government, September, 2010.

³⁹. Most South Asian Governments are carbon copies of British colonial bureaucracy in their formal trappings, the elite values of the past govern the behind-the-scenes machinations over the graft, patronage, and power. The governments with this nature consume huge amount of resources by corruption of public funds. This form of government is living reality of the South Asian Nations. To loot resources for their private needs and luxury as well as power, political leaders are always prepared to commit any amount of violation of ethics or law. The political instability is attributed to this factor. The source of corruption lies on 'elite values, patronage and power'. For more on this; see, Anjum Siddiqui (ed), 2007, "India and South Asia: Economic Development in the Age of Globalization".

⁴⁰. On magnitude of corruption and its linkage with development; see Transparency International, 2002. "Corruption in South Asia: Insights and Benchmarks from Citizens Feedback Survey in Five Countries", December, 2002.

world's poor—an estimated 437 million people live below one US dollar a day, whereas three-fourths of the total population survives below two US dollar a day. It is disheartening to say that 237 million people in South Asia live at risk of dying before the age of 40 years. Furthermore, it is a fact that 867 million people in the region do not have access to basic sanitation and more than 300 million people are living undernourished. The significance of the recent economic growth is thus widely suspected looking from human rights perspective.⁴¹

With India in the lead, the improvement in performance in South Asian economy is reportedly broad based. In 2007, the state of the GDP growth rate was as follows: Afghanistan 3.4%; Bangladesh 4.9%; Bhutan 21.4%; India 7.4%; the Maldives 5.7%; Nepal 4.7%; Pakistan 2.7%; and Sri-Lanka 7.7%. India with over 60% of the total South Asian population has not only crucial but decisive role in economic development of the region.⁴² While economic growth rate varies in different SAARC members all are not doing equally good, the spectacular increase in economic growth rate of India is playing a crucial role viewing from the fact that 60% population of South Asia belongs to India alone. Due to macro-economic growth rate, the proportion of the income poverty is supposedly declined in most members of South Asia. Adult literacy rates have gone up from 49 to 58 percent; the net primary enrolment situation is sharply increased from 61 to 87 percent;⁴³ drop-out rate at the primary level has come down from 43 to 14 percent; and the number of out-of-school children has been reduced from 50 million to 13 million. Infant and under-five mortality rates have also gone down significantly.⁴⁴ Each individual member of South Asian region has gone a long way in progress.

Intellectuals, policy makers and planners in South Asia and beyond believe that the recent macroeconomic growth rate in some South Asian countries has positively impacted in the human development paradigm of the region. In turn, the human development paradigm has influenced every economic and social development policies and plans in the region.⁴⁵ 'The Human Development in South Asia 2007- A Ten-year Review', for instance, claims that 'the human centered policies and actions as well as the ongoing economic reform programs in the region in the recent decade has witnessed progress in many areas'. The report has identified the following areas as making spectacular progress:⁴⁶

- a. Economic growth rate of the major economies of South Asia has been spectacularly increased.

⁴¹. See, Human Development Report in South Asia, 2006: "Poverty in South Asia- Challenges and Responses", mahbub ul Haq Human development Center, Pakistan.

⁴². See World Bank, South Asian Economic Report (SAER), 2007.

⁴³. The net enrollment ratio (NER) in Nepal is promising. As reported by the Ministry of Education, Nepal, the number of net enrolled children has reached at 89.3 percent. NER in the case of girls has reached at 85.5 percent, still 4 percent less to boys. However, the NER for girls shows an upward trend. The literacy rate is improving remarkably as well. As per the Ministry of Education, literacy rate in 2009 of the age group between 15 and 24 has reached 75 percent and age group 6 year plus is 69 percent. The literacy rate at the age group 15 year plus is 56 percent. For detail see 'Nepal's State Party Periodic Report to CRC Committee'.

⁴⁴. Human Development In South Asia 2007: A Ten-year Review, The Mahabub ul Haq Human Development Center; Oxford University Press, Ch. Overview.

⁴⁵. Ibid

⁴⁶. Human Development In South Asia 2007: A Ten-year Review, The Mahabub ul Haq Human Development Center; Oxford University Press, Ch. Overview.

- b. Poverty has declined in most countries, although rural poverty is still a major issue in some countries.
- c. Literacy rate has significantly gone up.
- d. Infant and under-five mortality rate has reduced down significantly.
- e. Women's economic and political empowerment, as captured by GDI and GEM indices, has recorded higher values over the period, and both access to and enrolment of girls in primary and middle schools have increased rapidly.

These indicators of progress are supported by organizations such as UNDP, the World Bank and the Asian Development Bank.⁴⁷ In particular, Nepal's position for meeting many of MGD goals is appreciated internationally. The Nepal Demographic and Health Survey, 2006, presents that the infant mortality rate has come down to 48 per thousand live births and neonatal mortality (less than 4 weeks) has come down 33 per thousand live births. The under-five mortality rate has been reduced down to 61 per thousand live births. The immunization (BCG,DPT+HEP-B, Polio and Measles) rate of all six antigens in infants is more than 85 percent. Nepal is said to have successfully eliminated the neonatal tetanus and more than 9.5 million children have been given second dose of measles vaccination and this has reduced the post measles deaths significantly. Moreover, Nepal has been declared a polio free country in South Asia. However, in matter of the overall nutritional status of the children Nepal is facing a serious challenge. A large number of children in rural part of the country have no adequate food available. The poverty is thus a serious affliction on prospect of many children growing as 'healthy adults'. The fruits of these developments are largely confined to cities—the urban educated population is mainly benefited by these progresses. The gap between city and countryside is a serious problem in all South Asian countries. The governments, with their kleptocratic nature, are less attentive to this gape which is putting increasingly bigger number of people in crisis of life. The macro-economic growth has thus emerged with conceivably larger risk of human rights violation.

6. SOME MACRO-PROBLEMS AND EFFECTIVE STRATEGIES NEEDED TO PROMOTE HUMAN RIGHTS

Some positive stories of the macro-economic successes in South Asia and other parts of the world do not represent total reality. The thesis that average incomes of the poor of society rise proportionately with average incomes is no longer a plausible theory of development and human rights. The present successes of the South Asian economic growth represent only a scenario of the regional averages. The rise in macro-economic growth rate alone is not enough to reduce poverty and address other forms of deprivation. The looming South Asian scenario invalidates the theory that the liberal economic policies such as monetary and financial stability and open markets alone

⁴⁷ . See Human Development Report, 2009; UNDP.

raise incomes of the poor and everyone else in society proportionality.⁴⁸ There are several other determinants of the rise in incomes of the poor and change in the vector of their lives. Specifically, progressive rule of law, openness to international trade and developed financial markets, less consumption of financial resources by the government, control on inflation and strict financial disciplines are essentially important factors of income rise of the poor. These factors along with attainment of primary education increased spending on public health and education, labor productivity in agriculture relative to the rest of the economy, and enhancement of formal democratic institutions engender a positive atmosphere for income growth of the poor.⁴⁹ The state of these factors in South Asia is poor.

The objective of growth in incomes of the poor is to 'achieve transformation in the vector of lives of people'. The change in the vector of life enables individuals to accommodate with new demands by acquiring new skills of life and hence increase productivity. The scope of the 'skill' acquired by poor is limited. A professor, for example, can easily learn skills of driving a car and thus can easily change his/her profession. This potential is attributed to his/her education and capacity to change the vector of life. A poor farmer, however, cannot easily change his/her vector of life due to lack of education. The education is, thus, significant for rise in income. It implies that income growth is not *all* for human development. The income alone does not improve all aspects of the life of individual.⁵⁰ The factors described above are indispensable for overall human development. The scenario of these factors or determinants of development in South Asian countries is elaborately discussed below.

The role of law at this juncture becomes inevitable. All these determining factors of human development should be the primary concerns of the 'system of law'. Income growth as well as human development, in oblivion of a 'legal system' impregnated with pro-poor policies, formal democratic institutions and mechanisms to offer remedy in a state of denial of benefits from these policies and institutions, is nothing but a 'myth'. The legal systems of South Asian nations are great detriments in this regard. The legal systems are hardly coherent with need of income growth and

⁴⁸ . There are two schools of thought in debate regarding impacts of macro-economic growth rate in society. Some economists and development experts argue that the potential benefits of economic growth for the poor is undermined or even offset entirely by sharp increases in inequality that accompanies the growth. According to this thesis, the economic growth is extorted by educated urban population leaving rural poor untouched by benefits of economic growth rate. The eventual outcome is that 'the gap between poor and rich is enlarged. At the other end of the spectrum is the argument that liberal economic policies such as monetary and fiscal stability and open markets raise incomes of the poor and everyone else in society proportionately. This paper and more about debates is available at <http://www.worldbank.org/research/growth> last visited on 22 October 2011

⁴⁹ . David Dollar & Arat Kraay, "Growth is Good for Poor"; Development Resource Group, The World Bank. This paper is available online at <http://www.worldbank.org/research/growth> last visited on 22 September 2011.

⁵⁰ . The income growth of the poor does not automatically respond systematically to a number of supposedly 'pro-poor policies including formal democratic institutions and public expenditure on health, education and social security. The income growth also does not necessarily automatically respond to the development of human rights protection mechanisms. Rule of law, well-defined financial disciplines and fairly and impartially protected access to market competitions and most importantly guarantee of rights by legal system to development (a determinant to change in vector of life—from regressive status quo to progressive transformation of life conditions) are systematic instruments for 'human development'. For further detail discussion; see, David Dollar & Arat Kraay, "Growth is Good for Poor"; Development Resource Group, The World Bank. This paper is available online at <http://www.worldbank.org/research/growth> last visited on 22 September 2011.

human development enhancing policies and institutions. A reform of the legal systems is a prerequisite for extending the benefits of the economic growth to the poor. The reform must address the following sectors as a primary agenda:

- quality in many spectrums, ranging from gender, socio-economic, geographical and ethnic disparities, is a detriment of income growth as well as overall human development.
- Psychology of law that it is an instrument of the State to regulate citizens' behavior is equally important detriment for progressive change in the vector of lives of the poorest section of the population. The South Asian governments invariably consider that the 'poor population is a problem of their nations' development'. They use law to 'protect State's privilege of making decisions' in disregard of the interests or choices of this segment of the population. The duty of the State to work for change in the vector of the lives of people is refused, and the law is used as an instrument protecting the 'older values, power-centric governance system and machinations to protect State's discretions in development activities'.
- The poverty impact of growth has not declined even in recent years. The growth spurred by open trade or other macro-policies benefits merely the upper-strata population. As pointed out above, the average growth of income does not appear to have response on the crises of lives the poor population is living in. The growth in fact has created added hardship on the poor. The growth has increased the government's consumption of resources, and has intensified the corruption. The spending on so-called military and other perceived needs has increased manifolds. The legal systems of the region have utterly failed to 'protect the rights of the poor to socio-economic security'. In short, the legal systems of the region have failed to systematically respond to the Governments' responsibility to increase public spending on health, education and empowerment of the poor, introduce stringent financial disciplines, follow rule of law in decision making and impose sanctions on corrupt officials, and make the system of law an instrument of protecting rights of people.
- The legal transplant from developed countries is phenomenal in the region. The investment on justice, research, development and planning of laws, and reforms and development of law enforcement institutions is considered unproductive. State's lack of inclination to enhance rule of law based-legal regime as an essential development strategy has caused international organization to jump in and promote the notion of 'legal transplant'. The legal systems of the region in lack of indigenous and development warranted insights, have become in themselves, instruments of violation of rights of the poor.

These pitfalls in the legal systems have negatively affected the elements of justice in the present paradigm of economic growth in South Asia. Due to the absence of progressive law as an 'instrument of linking development efforts with notion of justice', 'the rise of average incomes has excluded the poor. The current growth pattern denies a fact that 'equitable distribution of the income is a precondition for reduction of poverty'. This is a consequence of the failure of the legal system. Financial and monetary stability and open market policies alone cannot guarantee access to the poor to benefits of economic growth. According to "Kuznets hypothesis", inequality tends to increase during the early stage of development and then decreases later on'. Theoretically, the hypothesis bears no objection. However, the theory cannot justify a notion of 'taking income growth of the poor for

granted on the basis of the growth of average economic growth of a society'. Role of an independent intervening factor or element is necessary as a prerequisite for 'setting up of the relationship between income growth of the poor and average economic growth of the society'. The independent intervening element is 'a well defined system of equitable distribution of benefits of the development'. And, for this society needs a well defined framework of law. The benefits of the average or macro-economic growth in a society are thus made available to the poor by the system of law. The system of law, on the other hand, works through instrumentality of 'the system of governance'. This thesis asserts that 'the macro-economic development of a society is achievable only through an interplay of economic principles of average income growth and a progressive system of law promoting equitable distribution of advantages and good governance'. The relationship between average economic growth of a society and the income growth of the poor is an overlapping issue of economy and law—no economic affairs such as financial and monetary stability and open market alone can ensure 'equitable growth of individuals' income without having a well planned system of law'.

The state of unremitting poverty and deprivation in South Asia is a result of persistent denial by the Governments of South Asia of a thesis that 'the interplay of a macro-economic growth and the system of law promoting equitable distribution of advantages' is a prerequisite. As noted before, the legal systems of the South Asian countries are the worse factors for blocking the poor from taking advantage of the ever inclining macro-economic growth in the region. With no doubt at all, the prevailing legal systems in the region are colonial in prodigy, formalist in operation and patronizing in distribution of advantages.⁵¹ Consequently, the current macro-economic growth in the region is contributing to worsening the 'lives of poor'. The legal systems have grotesquely failed to address the problems of corruption, government frauds, illegal political party financing, embezzlement, bribery, favoritism, extortion, abuse of discretion, and so on, and they are stealing the fruits of economic growth from of the poor people *en masse*. The problems are in fact making the poor 'the poorest'.

The level of economic and social transformation achieved by individual countries, especially by regions and groups within each country, differs significantly. The exclusion of the poor and marginalized communities is a serious problem in the region. The benefit of the economic growth is exclusively exploited by the upper middle and elite classes. Consequently, despite the remarkable indicators of economic growth rates referred to above and ensuing decline in statistics of poverty, there is hardly any change in the quality of lives of the millions of people living in poverty. The actual number of people living in poverty has not gone down, and health and education indicators are still matters of concerns for realistic scrutiny.⁵² The efficacy of the system of law and justice is, thus, obviously questionable.

In fact, poverty in the region continues to remain in a mammoth size and, therefore, constitutes one of the major causes of violence and human rights violation both structurally and systematically.

⁵¹. Constitutions of most countries of South Asia meticulously deny recognizing the 'economic and social development rights' as fundamental rights. The economic and social development planning is considered as a 'prerogative of the Government'. The people have neither say 'in decision making nor participation in development activities'. The public resources are considered as 'the property of the government', hence the governments consider no need of popular participation in decision making in matters of development projects. For debate on this issue; see Yubaraj Sangroula, 2010, *Jurisprudence-The Philosophy of Law*; Kathmandu School of Law, Ch. 5

⁵². Human Development In South Asia 2007: A Ten-year Review, The Mahabub ul Haq Human Development Center; Oxford University Press, Ch. Overview.

Even today, the region fails to address poverty as a daunting cause of structural violence. The Governments of South Asia, hence, deserve no thanks, although being in powers for so many years after the end of colonial rules. The seriousness and required interventions to address the problems of poverty is less visible in the systems of law and attitudes of the Governments in the region. Specifically, the following scenarios will present a scary picture of poverty and human rights violation in the region.⁵³

India

Aggregate economic statistics on evolution of poverty in India point fairly unambiguously towards steady, albeit slow, progress in the reduction of poverty. However, there are many statistics that shows the economic growth is not reaching to the poor. A recent study by the Asian Development Bank has confirmed that the fruits of rapid economic growth are not reaching the poor.⁵⁴ The study has pointed to a grim situation of inequality of income. The widening gap between urban rich and rural poor people implies that the better-off section of the society has experienced a significant increase in its standard of living, whereas the poor population is exposed to an added hardship of life. The least- well-off section has been pushed to a state of added sufferings due to ostensible increase in the price of basic substance of living in the wake of economic growth.⁵⁵

The Times of India⁵⁶ gives a further grim situation of the poor people in India. Referring to a report of the National Commission for Enterprises in the Unorganized Sectors (NCEUS), 75% of Indians are poor and vulnerable. 79 percent unorganized sector workers, 88 percent Scheduled Caste and Scheduled Tribes, 80 percent backward class people and 84 percent Muslims belong to the poor and vulnerable groups. These groups continue to remain poor at a bare subsistence level without any social security and are forced to work in miserable, unhygienic and unlivable conditions.⁵⁷

Bangladesh

Economic growth rate in Bangladesh in the last two decades has with no doubt improved significantly. Analysis of the poverty trends has showed a consistent decline in poverty incidence, especially in the rural areas. Bangladesh, over the past few years, has enjoyed credible record of sustained growth within a stable macroeconomic framework. However, it continues to suffer from acute interface of poverty dynamics and unfavorable agro-ecological and climatic environment. Other factors contributing to this interface include low human capital accumulation, unregulated and highly informal labor market, health hazards and illness, social risks like weak rule of law resulting in crime, violence and insecurity, political unrest and corruption.⁵⁸ The benefits of economic growth are, thus, exacted by a smaller urban middle and higher income groups. There are plenty of

⁵³. For drawing attention of readers to some specific representative problems related with poverty, India, Bangladesh, Pakistan, and Nepal selected as examples here. Hence, the reference of these four countries should not be taken to mean that the other countries in the region are free of problems relating to poverty.

⁵⁴. See in "Rising income inequality in Asia", A Bulletin of South Asia Alliance for Poverty Eradication, Kathmandu, Nepal; October 2007, p. 20

⁵⁵. See in "Rising income inequality in Asia", A Bulletin of South Asia Alliance for Poverty Eradication, Kathmandu, Nepal; October 2007, p. 20.

⁵⁶. 11 August 2007

⁵⁷. The Times of India, 11 August, 2007.

⁵⁸. Azam, Shaiful Md. And Imai, Katashuhi S., "Vulnerability and Poverty in Bangladesh", ASARC Working Paper 2009/02. See at Online http://rspas.anu.edu.au/papers/asarc/WP2009_02.pdf

indicators to show that a large number of households hover around the poverty line implying that the high ratio of households could potentially fall back into poverty line.⁵⁹

A significantly large population of Bangladesh remains in margin between \$1-a-day poverty to \$2-a-day poverty line. The decline in \$1-a-day poverty line has contributed to overall decline in figure of the poor population.

Pakistan

Economic growth rate in Pakistan reached at 6.8 percent in 2006-07. But it experienced a disheartening turbulence in 2007-08 and 2008-09 (declining to 3.7% and 1.2% respectively). The economic survey⁶⁰ of the Government of Pakistan presents an increase to 4.1% in 2009 -10. On the other hand, the inflation rate has gone up to 20.77% in 2008-09 and showing up further upward trend. The food inflation which has immediate impact on poverty increased to 23.7 % in 2008-09 but decreased to 12% in 2009-10. However, it has again shown a trend of escalation.

Nepal

Despite a decade long devastating civil strife, Nepal's progress in achieving MDG goals by 2015 is positive. As per the press note issued by UNDP on September 07, 2010, Nepal is close to achieving several of the eight globally agreed Millennium Development Goals by 2015 related to poverty, education, and health and environment sustainability. Nonetheless, the problem of poverty and deprivation possess a serious challenge to protection of human rights. The press note of UNDP says: "While there is striking progress in reducing poverty, in getting children into school and in saving the lives of children and mothers the national averages continue to mask significant disparities between ethnic, social and economic groups, amongst rural and urban populations and people living in the mountains, in remote areas and in the Terai (low-land plains)".⁶¹

The descriptions given above on the interface of poverty and deprivation distinctly reveal that 'the systematic continuity of the regressive status quo' is a stumbling block to the human security and dignity in South Asia. No human rights can be protected without adequate opportunities for development that addresses the regressive status quo. Development in this perspective is 'a change in the static paradigm of life'. Development is an instrument of 'equality'. Equality ensures 'equity' which is a prelude for protection of human rights. This underlying notion of the interface between human rights and development is overlooked by the contemporary jurisprudence. The change in the above mentioned 'situation' can be brought about only by recognizing the indispensability of 'development' as a means of 'building capacity' of individuals to address the problem of poverty and deprivation. The state of poverty and deprivation are consequences of 'human rights' violation and the protection of the same cannot be achieved without development, i.e. the progressive shift in the paradigm of life marred by regressive status quo.

⁵⁹. For detail analysis, See Azam, Shaiful Md. And Imai, Katashuhi S., "Vulnerability and Poverty in Bangladesh", ASARC Working Paper 2009/02. See at Online http://rspas.anu.edu.au/papers/asarc/WP2009_02.pdf

⁶⁰. Economic Survey 2009-10 in online www.finance.gov.pk/survey/chapter_10_0.pdf

⁶¹. "Nepal makes notable progress on the MGDs, eradicating inequality and social exclusion remain major challenges": Latest Updates, UNDP, Nepal. September 07, 2010. See at online <http://www.undp.org.np/successstory/successstory/php>

7. MALADIES OF INTERNATIONAL ASSISTANCE SYSTEM AND VILE POLITICS

The descriptions above plainly show that the international assistance system is hardly working to improve the condition of the lives of people in developing countries. The main causes behind this failure can be summarize as follows:

- a. As pointed out by Joseph Sild Giltz, the World Bank and international monetary fund are mainly pre-occupied by political interest of the western countries rather than the development benefits of the people of the developing countries. Politics here super shades the Humanity.
- b. The economically developed countries are not inclined to recognize that the massive poverty in the major part of the world today is an outcome of their plunderous rule in the past. They are morally responsible to rectify it. As Thomas Pogge, a professor of Harvard University rightly points out; the poverty that takes life of many people every year is an outcome of crime committed by the developed countries. So, it is not only an issue of moral responsibility but the developed countries are criminally liable for rectifying the poverty. So, international law needs to be developed to compel the developed countries to eradicate poverty.
- c. Developed countries had adopted “an attitude of rent seeking” in development assistance. They grant international assistance subject to conditions of their choice.
- d. The politics of promoting western political values has been a pre-condition for international assistance. The concept of colonialism has not yet ended.

8. CONCLUSIONS:

- i. Development of scientific and technological capacity through improved system of education is a pre-condition for development of the societies in developing countries,
- ii. The participation of people in development activities is an essential pre-requisite for development. This concept calls for effective possession of resources by people,
- iii. Restrictions on multinational corporation MNCs in developing countries is urgent,
- iv. Protection and preservation of copyrights for traditional skills, arts and knowledge of people is essential,
- v. The regional grouping of nation for collective utilization of resources is indispensable,
- vi. The responsibility of educated mass to work for their country must be made a duty. Thus the practice of developed countries such as; green card, DV, and permanent residence must be banned by international law. If the investment of the nation for education of such people is paid back to their nation of origin.