

**THE RIGHT TO DEVELOPMENT: CHALLENGES IN BRINGING DEVELOPMENT ON THE RIGHT TRACK**

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**Abstract**

Growing inequalities, poverty, environmental degradation, social injustices and values-crisis are biggest development issues today. The right to development is being crippled by pursuits of neo-liberal, *laissez-faire* economy and unbridled market forces. These are incompatible with human rights in general and the right to development especially. Development requires to be reconceptualized with focus on its human dimensions. Safeguarding right to development from baleful effect of market forces, catapulted by digital tsunami, and reinvigorating welfare state have become indispensable for mitigating inequities and social injustices. The states must assume their obligations in keeping with aims and objectives of the United Nations to “promote social progress” and “promotion of the economic and social advancement of all peoples” for putting development trajectory on the right track and making the right to development a living and lasting reality. With a pioneering voice in developing world, India has special responsibility for contributing to this cause.

**I Introduction**

WE ARE living in a crises-ridden world. This has been voiced by the international community recurrently since the creation of the United Nations. The United Nations General Assembly Declaration on the Establishment of a New International Economic Order (May 1, 1974), the United Nations Millennium Declaration (2000), the United Nations General Assembly Resolution: “Future We Want” (2012), the 2030 Agenda for Sustainable Development, and the United Nations General Assembly Resolution on “Towards a New International Economic Order” (2020) are important landmarks in expressing concerns with global crises.

The vision underlying the 2030 Agenda for Sustainable Development, proclaimed by the heads of the state/government at the United Nations Summit in September 2015 reckoned with numerous ‘challenges which humanity faces’: widespread ‘poverty’ with millions as its victims; ‘enormous disparities of opportunity, wealth and power’, ‘unemployment, particularly youth unemployment’, ‘environmental degradation’, ‘humanitarian crises’.<sup>1</sup> The agenda warns that “The survival of many societies, and of

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1 Transforming Our World: The 2030 Agenda for Sustainable Development, A/ RES. 70/1. Sep. 25, 2015, par. 8.

the biological support systems of the planet, is at risk.”<sup>2</sup> In face of ‘immense challenges to sustainable development’, it articulates a new vision centered around three dimensions of sustainable development: the economic, social and environmental.

In a similar vein, the Resolution on, “Towards a New International Economic Order” (2020) adopted by the United Nations General Assembly mentions “the multiple interrelated and mutually exacerbating current global crises, in particular the world financial and economic crisis, volatile energy and commodity prices, the food crisis and the challenges posed by climate change, which have a negative impact on the development prospects of developing countries and threaten to further widen the gap between developed and developing countries...”<sup>3</sup>

These crises are compounded by ‘value-crisis’, which seems to be deeply entrenched in our society. More than two decades ago, the World Declaration on Higher Education, adopted by UNESCO, Paris in 1998 gave a call for radical change and renewal, “so that our society, which is currently undergoing a profound crisis of values, can transcend mere economic considerations and incorporate deeper dimensions of morality and spirituality.”<sup>4</sup> The value-crisis has since become more pronounced, manifesting itself in neglect of moral and ethical values, social violence and crimes, including cybercrimes, spread of pornographic websites, fake news and flourishing corruption which does not even spare education<sup>5</sup> - all corrupting human development.

Value-crisis has a great deal to do with the rise of the neo-liberal economy and market forces, with disregard for ethics and social justice public interest. The crises highlighted above area a signal that the world has not been on the right to track, and that the mission of the United Nations “to promote social progress and better standards of life in larger freedom” and “to employ international machinery for the promotion of the economic and social advancement of all peoples”<sup>6</sup> remains severely impaired.

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2 Transforming Our World: The 2030 Agenda for Sustainable Development, A/ RES. 70/1, Sep. 25, 2015 par. 14.

3 Towards a New International Economic Order, Resolution (A/RES/75/225), adopted by the United Nations General Assembly on Dec. 21, 2020. Emphasis added.

4 World Declaration on Higher Education for the Twenty-First Century: Vision and Action, adopted by the World Conference on Higher Education, organized at UNESCO in 1998, (Preamble). The text of the Declaration is *available at*: [http://www.unesco.org/education/educprog/wche/declaration\\_eng.htm](http://www.unesco.org/education/educprog/wche/declaration_eng.htm) (last visited on Jan.22, 2022).

5 The Global Corruption Report, 2013 threw light on this, stating that “From primary to higher education level, no part of the education cycle is immune to corruption.” *Global Corruption Report: Education* (Routledge, 2013 – Preface by Huguette Labelle, Chair, Transparency International).

6 Preamble of the Charter of the United Nations.

## II Ascendancy of neo-liberal economy and of market forces

The neo-liberal economy and market forces it engenders have been persistently gaining strength since the establishment of the United Nations. The *laissez-faire* economic system has been flourishing, giving rise to the transnational corporations and other big business enterprises operating across the globe. Big technology joints are so free and so overpowering that they themselves set rules for their operations. The market driven economy is propelled by the motto: “the market will discipline states.” This reflects the basic postulate of neo-liberalism - requiring states to give free hand to market with a *laissez-faire* approach. Governments are even facilitating its operations, and have in fact become instrumental for the rise of corporate sector and big tech-giants as predominant players globally in *laissez-faire* spirit.

Pursuit of neo-liberalism, catapulted by digital revolution, has further entrenched the hold of market forces, with world-wide *modus operandi*. Edgar Morin, a highly esteemed centenarian intellectual of our times has insightfully exposed such development pattern. The neo-liberal model of development, according to him, has set the Western nation-state economies on a wild race to dominate, extract, produce, market, distribute and consume. All this exhibits the linear thinking of past decades, with its focus on individualism, productivism and greed which have achieved the status of virtuous activities in the public’s eye. Our modern consumer society, in its perennial quest for convenience, has been wreaking havoc with many of our cultural values.<sup>7</sup>

The world is thus coming under stronghold of neo-liberal economic forces and international capitalism, characterized by profiteering and amassing wealth, often without any compunction for ethics, morality and human values.<sup>8</sup> Accumulation of wealth in the hands of so few with vast majority of world population having only a tiny share of world’s wealth and huge gap between the ‘haves’ and ‘have-nots’, widespread poverty and marginalization; strong hold of privatization<sup>9</sup> and dwindling

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7 “Edgar Morin’s Far-Reaching Social Vision: The Envelopment of Development” by Peter Isackson, Jun 18, 2020, *available at*: <https://www.fairobserver.com/region/europe/peter-isackson-edgar-morin-french-philosopher-philosophy-culture-news-37824/> (last visited on Jan.22, 2022).

8 Owing to the neo-liberal economy, providing services, for instance, through hotels, or transportations like airlines or trains, or hospitalization in private hospitals *etc.* is so unfettered that their proprietors as service providers have appropriated to themselves the full liberty of fixing, modifying or refixing any price at will which lets them amass wealth, irrespective of hardships for and the plight of the service-users in certain compelling situations. ‘Market disciplines states’ and, one can add, the ‘public.’

9 Privatization must be understood *vis-à-vis* the welfare state, that is, whether providers of services for common public interest and well-being are private providers or public authorizes. It is not co-terminus with industry and must be understood as being distinct from industry one runs or economic activity one carries out. It must be understood in terms of services provided and whether these are a public responsibility or are in private hands.

of social welfare schemes, austerity measures by government and disinvestment in public services, deeply entrenched social injustices *etc.*, are all clearly stark manifestations of a *laissez-faire* economy and its strong hold over society and over those holding the reins of power.

*Laissez-faire* economic system breeds social injustice, sacrificing common well-being on the altars of neo-liberal economy for self-aggrandizement. Its baleful effects on moral and ethical fabric of society and humanistic values are woeful. It gives a push to drive towards privatization and a corporate culture sanctifying this. This also has very serious implications for a state's leadership. Under the spell of neo-liberal economic forces, governments are becoming allies of big business, with corporate sector and the political leaders joining hands. History teaches us about the separation of powers between the Church and the state. Today, when the corporate sector wields immense powers as did the Church in the past, and rules the roost, even a bigger question is that of separation of powers between the corporate sector and the state. Inequalities, poverty, social injustices and values-crisis engendered by *laissez-faire* economy will be aggravated unless, recognizing incompatibility between the neo-liberal market economy and human rights, they are not tackled head-on.

### III Incompatibility between the neo-liberal, market economy and human rights

The crises highlighted above and the consequent woes afflicting the world emanating from the neo-liberal economy and the market forces propelled by it clearly demonstrate fundamental incompatibility between these forces and the ideals and principles embodied in the Universal Declaration of Human Rights (UDHR) proclaimed by the United Nations General Assembly in Paris on December 10, 1948. Neo-liberal economic forces fly in face of stipulations in the very first article of the Universal Declaration: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."<sup>10</sup> Rather than acting towards one another "in a spirit of brotherhood", the neo-liberal economic forces and those holding their reign, act in a spirit of human exploitation, with complete disregard for human dignity. Gross inequalities, widespread poverty, social injustices and many other woes prevalent today on account of *laissez-faire* economy and market forces mentioned above, are a fatal blow to the very mission and aims of the United Nations - to "promote social progress and better standards of life." They are also devastating for the system of human rights, especially economic, social and cultural rights and the right to development. Social injustices they breed can outrage 'the conscience of mankind', to use the expression in the Universal Declaration.

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10 Recognition of "the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world": Preamble of the Universal Declaration.

It is time the international community recognizes that pursuit of neo-liberal economy and market forces propelled by *laissez-faire* drive is incompatible with ideals, principles and norms underlying the UDHR and the system of human rights edified on the basis of the Universal Declaration. So long as a market economy is given free hand to operate in a *laissez-faire* spirit, poverty which is engendered by neo-liberal economy, cannot be curtailed, let alone its complete eradication which is the avowed objective of the 2030 Agenda for Sustainable Development; inequalities which are growing cannot be curbed, let alone the creation of inclusive society and the ideal of equal worth of all human beings, enshrined in the Universal Declaration; public services and welfare schemes cannot be saved from being crushed, let alone the hope of reinvigorating the welfare State, based upon the mission of the United Nations; social injustices cannot be wiped out, let alone the clamour for an international human order for sharing prosperity.

Pursuit of neo-liberal economy, being inherently incompatible with human rights, is the biggest obstacle to the realization of the right to development. The ascendance of privatization and corporate sector has been a severe blow to the right to development and also to other human rights. This is best illustrated by the right to education which is being scuttled by forces of privatization, spearheaded by neo-liberal economy. The right to health is similarly being eroded on account of privatization of health services.<sup>11</sup> The right to work has little sense when the State under the sway of neo-liberal economy cannot provide it, nor can it defend the ignominious treatment meted out to workers in a neo-liberal economic system. Human dignity which provides sustenance to human rights is the least concern of the neo-liberal economy and capitalism.

#### **IV Making the right to development a living reality – A persisting challenge**

Crippling effect of forces of neo-liberal economy on human rights and especially on the right to development, highlighted above, shows that making the right to development a living reality is a herculean task. Both the states individually and the international community collectively have not taken measures commensurate with their commitment to overcome the obstacles besetting the right to development since it was established by the United Nations General Assembly in 1986.<sup>12</sup> This deficiency is evident in the implementation of the Vienna Declaration and Programme of Action,<sup>13</sup> adopted by

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11 The Constitution of the World Health Organization (WHO) recognizes “the highest attainable standard of health as a fundamental right of every human being.”

12 Declaration on Right to Development adopted by the United Nations General Assembly resolution 41/128 of 4 Dec. 4, 1986.

13 The World Conference on Human Rights “reaffirmed that the right to development, as established in the Declaration on the Right to Development (1986), is a universal and inalienable right which is an integral part of fundamental rights.” The Vienna Declaration and Program of Action, adopted by the World Conference on Human Rights in June 1993 proclaimed the adherence by the entire international community to the right to development. (par. 10).

the World Conference on Human Rights in 1993, which called upon the states to cooperate with each other in ensuring development and in “eliminating obstacles to development.” Likewise, in face of persistent deficiencies for the realization of the right development, the Millennium Declaration (2000) had expressed the urgent need of resolve to making it “a reality for everyone”<sup>14</sup> 20 years later, the Resolution on “The right to development” adopted by the United Nations General Assembly in 2020 emphasized “the urgent need to make the right to development a reality for everyone...”<sup>15</sup> These texts show the vexation of the international community with the persistent obstacles in the realization of the right to development. These obstacles are a mark of deficiencies and shortcomings in operationalizing its normative framework established by the Declaration on the Right to Development. They also show that the state has not been living up to its obligation for the realization of the right to development. Discourses on the right to development, human solidarity and future envisaged for our common humanity will remain hollow so long as the neo-liberal economic and market-driven forces are not subdued and a new model of human development, founded upon welfare state, common well-being and social justice is not brought into being.

According to human rights law, it is the obligation of the state to ensure that all persons – natural or legal - including private providers of services, business entities and corporate sector - in its jurisdiction are respectful of human rights norms and principles. As the custodian of human rights and *ipso facto*, of the right to development, state cannot absolve itself of its responsibility in face of social inequities and social injustices to safeguard not only the right to development but the whole expanding framework of human rights from baneful effects of the neo-liberal economy, market forces and privatization. Intensifying normative action at national and international level in order to give shape to the right to development as an inalienable, universal human right is absolutely necessary to overcome the shortcomings in its realization.

#### **V Intensifying normative action for the realization of the right to development**

Normative framework for the right to development is laid down in the Declaration on the Right to Development. The Declaration lays down that the right to development is an inalienable human right and that the individual is the central subject and beneficiary

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14 Resolution 59/185, The Right to Development”, adopted by the General Assembly, A/RES/59/185, Mar. 8, 2005.

15 Resolution on “The right to development” (A/RES/75/182), adopted by the United Nations General Assembly on Dec 16, 2020 recognizes that “globalization has brought disparities between and within countries and that issues such as trade and trade liberalization, the transfer of technology, infrastructure development and market access should be managed effectively in order to mitigate the challenges of poverty and underdevelopment and to make the right to development a reality for everyone.”

of development. It recognizes the importance of its operationalization by strengthening its foundation in national legal system and public policies and enjoins upon the states the obligations to give effect to it. It stipulates that “Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.”<sup>16</sup> It also lays down that the fulfillment of the right to development is primary responsibility of states.<sup>17</sup>

India played a preeminent role in the adoption of the Declaration on the Right to Development and remains active in discussions pertaining to it in the international community. With a pioneering voice in developing world, India has special responsibility for contributing to national and international endeavor for giving shape to the declaration by intensifying normative action for the realization of the right to development.

Re-affirmed by numerous declarations and resolutions of the United Nations, the right to development is a thread that runs through the tapestry of all human rights. It is an overarching rights; encompassing all other human rights. But its concept is even more profound. Mohammed Bedjaoui enlightens us about its nature in full amplitude. He has observed that the right to development is “alpha and omega” of human rights; a core right from which all other rights stem.<sup>18</sup>

The World Conference on Human Rights (1993) reaffirmed the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.<sup>19</sup> The right to development is thus as an internationally established, overarching right, which occupies a central place among human rights. The normative framework for implementation linked with the human rights-based approach grounds development within a universal set of values so that it is pursued in an equitable, just and sustainable manner. Everyone should be beneficiary of development according to human rights-based approach.

The right to development is individual as well as collective – both the individuals as well as the society are its beneficiaries. This is also a distinguishing feature of the right to development as established in the African Charter on Human and Peoples’ Rights (1981). Continent wide right to development model in Africa is unique in that the African Charter, which embodies concept of individual as well as collective human

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16 Declaration on the Right to Development, 1986, art. 10.

17 *Id.*, art. 3(1) reads: States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development.

18 Mohammed Bedjaoui (ed.), “The Right to Development” in *International Law: Achievements and Prospects*, 1182 (Martinus Nijhoff Publishers, UNESCO 1991).

19 Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on June 25, 1993, par. 10

rights, lays down the right of ‘all peoples’ to development.<sup>20</sup> Moreover, the African Charter on Human and Peoples’ Rights enjoins upon the states “the duty, individually or collectively, to ensure the exercise of the right to development.”<sup>21</sup>

In order to advance the right to development, or for that purpose, any economic, social and cultural right, state should be a regulator of *laissez-faire* economy and market forces as their pursuits result in poverty, inequalities and social injustice of which we see abundance in today’s world. This is all the more important as the state is custodian of human rights – political and civil as well as economic, social and cultural. It cannot neglect or abandon its obligations or remain silent when confronted with actors and situations such as growing poverty, inequalities and social injustices which are an affront to human rights in general and to the right to development especially. The model of social development, coupled with a human rights-based approach, embraced by the nordic countries illustrates actions undertaken by state in that spirit.

### **Eradicating poverty**

Over the past decades, poverty reduction has been a priority objective of the international development agenda. In face of persisting poverty in the world, the United Nations Millennium Declaration expressed at the dawn of the century and the new millennium the resolve of the international community to “freeing the entire human race from want.”<sup>22</sup> Yet poverty remains widely prevalent, with over one third of humanity being its victim. Its magnitude has even increased since 2020 due to COVID-19, which has hit hard the workers. The United Nations General Assembly Resolution: “Towards a New International Economic Order” (2020) expresses the concern that “more than half of the workers in the developing world, about 1.5 billion people, live in vulnerable employment situations...”<sup>23</sup> One witnesses erosion of the workers’ rights, giving added strength to the free play of market forces, thus undermining poverty reduction strategies.

Poverty makes a mockery of the stipulations in the Universal Declaration of Human Rights that “all human beings are born free and equal in dignity and rights.” It is an affront to human dignity. It is also the greatest obstacle to the enjoyment of the right to development as well as the right to education. China’s laudable performance in poverty eradication was commended in 2020, by the UNDP: China: “The successful implementation of China’s targeted poverty alleviation program, culminating this year in lifting out of poverty the last of the 89.6 million rural poor identified in 2014, is a

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20 African Charter on Human and Peoples’ Rights 1981, art. 22 reads: All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind .

21 *Id.*, art. 22 (2).

22 United Nations Millennium Declaration, 2000, (A/RES/55/2).

23 Towards a New International Economic Order, Resolution (A/RES/75/225), adopted by the United Nations General Assembly on Dec. 21, 2020.



remarkable accomplishment.<sup>24</sup> This is remarkable achievement as regards the 2030 Agenda for Sustainable Development which has set the complete eradication of poverty as its very first goal.

The 2030 Agenda for Sustainable Development states that “Eradicating poverty in all its forms and dimensions, including extreme poverty is the greatest global challenge and an indispensable requirement for sustainable development”<sup>25</sup> However, the fundamental question is: how can poverty be eradicated if the market economy which is its root cause continues to thrive, further marginalizing the poor? Market economy has given a crushing blow to concept of welfare state, whereas welfare schemes are indispensable for poverty alleviation. Moreover, it has also engulfed education, which has become predominantly privatized in developing countries. The public education has thus been shrunk, scuttling educational avenues for children from poor families. Unless opportunities for public education of good quality as a fundamental right are expanded, the children from poor families cannot avail of it and poverty eradication as the very first goal of the 2030 Agenda for Sustainable Development cannot be attained. Merely saying that poverty is an affront to human dignity is not enough. What is necessary is to push back the *laissez-faire* economic drive and take concrete steps with promotional measures as part of economic, social and cultural rights and to launch welfare state schemes, above all, a system of good quality public education freely accessible by the children from poor families for empowering them to overcome poverty. Such measures are pivotal for eradicating large scale poverty prevalent in India which is a ‘social’ democratic republic. The pursuit of development anchored in social justice and common well-being is at the core of India’s constitutional mission. In that spirit, the provisions for social welfare in India’s Constitution provide basis for the establishment of an entire range of programmes and policies, guided by equitable approaches in favour of the marginalized, in particular, the poor.

### **Combating growing inequalities**

Pushing back the *laissez-faire* economic drive and making education an equalizing force is also necessary to fight the growing inequalities in the world. Reports abound in flashing that a tiny minority in the world population owns the bulk of global wealth and a vast majority of human beings remain ‘have-nots’ with little share in the global

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24 “Ending poverty on road to a better future”, Speech by Amakobe Sande, United Nations Resident Coordinator a.i. in China, Oct. 9, 2020. Amakobe Sande recognized that “This achievement is a major contribution to global efforts to advance progress on SDG 1, to end all forms of poverty everywhere, and especially on target 1.1, eliminating extreme income poverty.”, available at: <https://www.cn.undp.org/content/china/en/home/ourperspective/ourperspectivearticles/2020/ending-poverty-on-road-to-a-better-future.html> (last visited on Feb.20, 2022).

25 Transforming Our World: the 2030 Agenda for Sustainable Development, (A/RES.70/1, 21 October 2015).

wealth.<sup>26</sup> This is well documented and exposed in the ‘Global Inequality Report 2022’. Depicting the stark reality, this report states that “The share of the bottom 50 percent of the world in total global wealth is 2 percent (...), while the share of the top 10 percent is 76 percent.”<sup>27</sup> India is similarly faced with growing inequalities which are severe constraints on the realization of the right to development. According to the World Inequality Report 2022, “While the top 10% and top 1% hold respectively 57% and 22% of total national income, the bottom 50% share has gone down to 13%. India stands out as a poor and very unequal country, with an affluent elite.”<sup>28</sup> It is, therefore, imperative for India to drastically step up measures for reducing inequalities. This is also India’s Constitutional obligation: “The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”<sup>29</sup>

As regards an egalitarian system, one can mention Mauges – a municipality in France - as an ideal model. It is a homogenous municipality where there are neither rich nor poor, neither unemployed nor executives and where people value work. This is a laudable example of the shape given to the right to development to the equality of opportunities, with negligible economic and social disparities where every one finds some means of earning and of leading a decent life.<sup>30</sup>

Growing inequalities in the world are a blatant manifestation of *laissez-faire* policy approach for the benefit of corporate sector. These are clearly the result of free play of market forces, which have given free hand to the ‘haves’ to further enrich themselves, without caring for lot of the marginalized and the poor, and their deteriorating situation.

An interrogative stance in face of stark realities of growing inequalities, addressing their root causes with focus on bold measures needed to overcome them, can be helpful in giving shape to the right to development. Bearing in mind the fundamental

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26 The World Social Science Report 2016: “Challenging Inequalities: Pathways to a Just World”, prepared by the ISSC and the IDS and co-published with UNESCO in 2016, gave the warning that concentration of economic and political power in the hands of a small number of people can threaten growth, social cohesion and the health of democracies.

27 The World Inequality Report 2022, Foreword, *available at*: [https://wir2022.wid.world/www-site/uploads/2021/12/Summary\\_WorldInequalityReport2022](https://wir2022.wid.world/www-site/uploads/2021/12/Summary_WorldInequalityReport2022) (last visited on Mar. 1, 2022).

28 The World Inequality Report 2022: Country Sheets: India, at 197, *available at*: [https://wir2022.wid.world/www-site/uploads/2022/01/CountrySheets\\_WorldInequalityReport2022.pdf](https://wir2022.wid.world/www-site/uploads/2022/01/CountrySheets_WorldInequalityReport2022.pdf) (last visited on Feb. 10, 2022).

29 Constitution of India, 1950 art. 38(2). See also, art. 14 which establishes that “the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

30 For more information, see Le Monde, Feb. 1, 2022, *available at*: [https://www.lemonde.fr/societe/article/2022/02/01/ici-c-est-tres-mal-vu-de-sortir-du-lot-les-mauges-territoire-le-plus-egalitaire-de-france\\_6111771\\_3224.html](https://www.lemonde.fr/societe/article/2022/02/01/ici-c-est-tres-mal-vu-de-sortir-du-lot-les-mauges-territoire-le-plus-egalitaire-de-france_6111771_3224.html) (last visited on Feb.10, 2022).

principle of equality of opportunity enshrined in all international human rights conventions and the state responsibility that flows from this, it will be legitimate to implore states as to why it is that while they have been denouncing inequalities for decades, these nonetheless continue to grow? Why it is that poverty has assumed wider proportions when avowed objective of public policies for decades has been to eliminate poverty? Why it is that ‘equal worth and dignity’ of all human beings, solemnly proclaimed by the international community, remains most flouted in development trajectories as vast majority of humankind remains victim of marginalization and poverty? The response, if it is sincere, would concede that this is unquestionably due to continued pursuit of neo-liberal economy, free play of market forces and push towards privatization.

### **Safeguarding the right to development from baleful effect of privatization**

Neo-liberal economic forces with profit-making and even profiteering as their leitmotiv work as springboard for privatization. *Laissez-faire* driven global hold of digital giants having global reach but without global regulation or control bears evidence to this. As a result of push towards privatization, the gap between public and private wealth has become abysmal. This comes out clearly from the World Inequality Report 2022. According to this report, one way to understand the inequalities in the world “is to focus on the gap between the net wealth of governments and net wealth of the private sector. Over the past 40 years, countries have become significantly richer, but their governments have become significantly poorer. The share of wealth held by public actors is close to zero or negative in rich countries, meaning that the totality of wealth is in private hands.”<sup>31</sup> Onslaught of privatization is illustrated by mushrooming of privatization in education at all levels. Education has become a business, nay most lucrative and big business, with a range of entities such as individual proprietors or profit-seeking corporate houses operating in this sector. As a result, education has become predominantly commercialized and ‘edu-business’ is flourishing in many countries, including India. This is assuming alarming proportions, with scant control by public authorities.<sup>32</sup> It is, therefore, of paramount importance to safeguard the right to education from forces of privatization and preserve education as a public good. The spread of privatization across other sectors like health and transport *etc.*, calls for similar approach, as the trend towards the neo-liberal policy is in full swing, and an

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31 The World Inequality Report 2022, Executive Summary at 15, *available at*: [https://wir2022.wid.world/www-site/uploads/2021/12/Summary\\_WorldInequalityReport2022](https://wir2022.wid.world/www-site/uploads/2021/12/Summary_WorldInequalityReport2022) (last visited on Mar. 10, 2022).

32 See “State responsibility for regulating private providers of education and preserving education as a public good”, Report by the United Special Rapporteur on the Right to Education, (A/69/402), Sep. 24 2014, and “Regulating private providers in education and safeguarding education as a public good”, Report by the United Special Rapporteur on the Right to Education, (A/HRC/29/30) June, 10, 2015.

increasing number and range of private actors are operating at the global, regional and national levels. State withdrawal in favour of privatization in the field of education is detrimental to human development. It has been rightly observed that this breeds a “cultural-valuational currency” which is derogatory to the “moral worth” of the very poor that further limits (if not excludes) their equal participation on society.”<sup>33</sup>

It is clear that if this trend and the push towards privatization continue, we may soon find societies plunged into socio-economic apartheid. Late Atal Bihari Vajpayee, former Prime Minister of India, stated at the third meeting of the High Level Group on Education for All, held in Delhi in 2003 under the auspices of UNESCO that “the difference between the poor man’s school and the rich man’s school is becoming starker with each passing year.” This trend, which has been since then persistent, is characteristic of other sectors as well, with rich man/poor man divide. Like rich man’s schools and poor man’s schools, we also see rich man’s hospitals and poor man’s hospitals, rich man’s transport and poor man’s poor transport, rich man’s habitation and poor man’s habitations *etc.*, – all wrought under the sway of capitalism by neo-liberal economy, stronghold of corporate sector and *laissez-faire* market forces.

Any service provided by private providers is a ‘public’ function, for which they are socially responsible under human rights law and cannot be allowed to operate freely in a *laissez-faire* spirit. Regulating market forces is a state responsibility. As the International Commission on Education for the 21<sup>st</sup> Century stated, policy-makers must “face up squarely to their responsibilities. They cannot leave it to market forces or some kind of self-regulation to put things right when they go wrong.”<sup>34</sup> The views of the International Commission are a call to trammel market forces which in India and in so many other countries is giving impetus to privatization.

It is also necessary to bear in mind that privatization has its own stakeholders who in effect would have little interest in their country’s development when this is restrictive of their profit-making pursuits. Not all stakeholders are sincere in their commitment while partaking in development process. The stipulations in the 2030 Agenda for Sustainable Development on “the role of the diverse private sector, including ‘multinationals’, in the implementation of the new Agenda”<sup>35</sup> cannot meet an unqualified approval. The corporate sector has a long track record of attempting to prevent any regulatory framework, and numerous corporations have sued governments for trying to implement regulations that could harm their profits. Attempts at soliciting neo-

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33 Ian Macpherson, Susan Robertson (ed.) *et al.*, “Interrogating the Private-School ‘Promise’ of Mow-Fee Private Schools” in Ian Macpherson, *Education, Privatization and Social Justice: case studies from Africa, South Asia and South East Asia* 294 (Symposium Books, Ltd 2014).

34 Education for the Twenty-First Century – Highlights, “Learning: the Treasure within”, Report of UNESCO of the International Commission on UNESCO Publishing, 1996, at 29.

35 Transforming Our World: the 2030 Agenda for Sustainable Development, A/ RES. 70/1. Sep. 25, 2015 par. 41.

liberal economic actors to be partners in giving shape to the right to development should be viewed skeptically.<sup>36</sup> Instead of calling on private sector to be stakeholder in international development agenda, the international community should seek to safeguard human rights, especially the right to development from baleful effect of privatization. It is necessary to enjoin obligations on the private actors to abjure from human exploitation and move away from inflicting injustices upon social fabric and not to ride roughshod over the system of human rights, especially the right education, and the right to development. Discourses on sustainable development with the right to development at its center stage and on a future envisaged for our common humanity will remain hollow so long as the neo-liberal economic and market-driven forces of privatization are not subdued and a new model of human development, founded upon welfare state, common well-being and social justice is not brought into being.

### **Reinvigourating welfare state**

The concept of the welfare state is being crushed by the pursuit of the neo-liberal economy. Trend towards privatization is scuttling public welfare activities in many countries. Private providers of services of all kinds continue to expand their hold on society, eroding the system of welfare state. This is being even facilitated by public policies by way of ‘enabling environment’ for the private sector operations to grow, especially the digital technology markets and firms, giving rise to socio-economic inequalities on unprecedented scale, already highlighted. The repercussions of these trends on the right to development are obvious. It is now being recognized that “The time is ripe for our measurement system to shift emphasis from measuring economic production to measuring people’s well-being.”<sup>37</sup> The governments must assume their responsibility for social well-being of the citizens by reinvigourating welfare state. This is indispensable for protecting them from inequities and social injustices resulting from neo-liberal economy.

States as members of the United Nations have the obligations for reinvigourating the welfare state as it corresponds to the aims and objectives of the United Nations, already mentioned: to “promote social progress” and “promotion of the economic and social advancement of all peoples.” This requires bold steps to attack and uproot the causes of social injustices, the vice of capitalism and global exploitation which the neo-liberal economy breeds and to create a new model of socio-economic development founded upon equity, public welfare and social justice. Moving in that direction is the obligation

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36 The World Economic Forum’s report on the future of global governance posits that a globalized world is best managed by a coalition of mul-tinational corporations, nation-states (including through the UN system) and select civil society organizations.” “Global Redesign,” World Economic Forum, 9 (2010).

37 Happiness: towards a holistic approach to development Note by Secretary-General, A/67/697, Jan. 16, 2013.

of the states laid down by the Declaration on the Right to Development which provides that “States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals...” (article 2 (3)). It enjoins upon the states the responsibility for ensuring equal opportunities of “access to basic resources, *education*, health services, food, housing, employment and the fair distribution of income.”<sup>38</sup> In pursuance to this obligation, entire range of programmes and schemes can be devised for the effective implementation of the right to development.

The World Inequality Report 2022, which provides global estimates of wealth inequalities, is a plea for reinvigorating welfare state. Highlighting the beneficial effects of the welfare state, the report states that “the rise of modern welfare states in the 20<sup>th</sup> Century, which was associated with tremendous progress in health, education, and opportunities for all, was linked to the rise of steep progressive taxation rates. This played a critical role in order to ensure the social and political acceptability of increased taxation and socialization of wealth. A similar evolution will be necessary in order to address the challenges of the 21<sup>st</sup> Century.”<sup>39</sup>

In this connection, the welfare-state model of the nordic countries, as mentioned above, is exemplary. As the World Happiness Report, 2020 explains, the welfare-state model is also the reason for the high place the Nordic countries occupy in world happiness index. The report states that “Given that the Nordic countries are renowned for their welfare-state model with extensive social benefits, a natural candidate to explain Nordic happiness is the welfare state (...) One secret to Nordic happiness is the institutional framework of the nordic welfare state. People tend to be happier in countries where there is easy access to relatively generous welfare benefits, and where the labor market is regulated to avoid employee exploitation.”<sup>40</sup>

India’s obligations under the Declaration on the Right to Development acquire added significance by the Directive Principles of State Policy laid down in chapter IV of India’s Constitution. Article 38(1) of this chapter lays down that “The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.”<sup>41</sup> Accordingly, it is incumbent upon India to promote economic and social wellbeing of its citizens by up scaling the public welfare schemes.

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38 Article 8 (1) of the Declaration.

39 The World Inequality Report 2022, Executive Summary at 20, *available at*: [https://wir2022.wid.world/www-site/uploads/2021/12/Summary\\_WorldInequalityReport2022](https://wir2022.wid.world/www-site/uploads/2021/12/Summary_WorldInequalityReport2022) (last visited on Feb. 10, 2022).

40 World Happiness Report, 2020: Ch. 7 The Nordic Exceptionalism: What Explains Why the Nordic Countries are Constantly Among the Happiest in the World at 181, *available at*: <https://happiness-report.s3.amazonaws.com/2020/WHR20.pdf> (last visited on Feb. 10, 2022).

41 Constitution of India, art. 38(1).

As a welfare state, it is expected of India to exercise control over all the economic activities and provide the basic facilities to its citizens in all developmental work. The Constitution of India makes it imperative to edify a system of welfare state as a key pillar of country's development.

For reinvigorating welfare state, public resource mobilization is an urgent necessity. This is critically necessary as governments especially in developing countries evoke budgetary constraints and paucity of funds for their inability for the provision of public education or public health facilities and for undertaking welfare schemes essential for overcoming social inequities. They resort to austerity measures which are detrimental to the realization of the right to development. In a briefing paper (2014), OXFAM warned about deleterious effect of embracing austerity measures as a policy approach: "Developing countries are at the greatest risk of rocketing poverty and inequality due to stagnating public spending on public services", (...) "Austerity is a medicine which could kill the patient."<sup>42</sup>

In this connection, it is important to recall that it is the legal obligation of states under the International Covenant on Economic, Social and Cultural Rights to devote maximum resources available for the realization of these rights. Even when the full realization of rights, such as the rights to food, housing, education and health, is likely to be achieved only progressively, states have an immediate obligation to satisfy a "minimum essential level" of those rights and to take deliberate, concrete and targeted steps towards their full realization.<sup>43</sup>

### **Wiping out social injustices**

Reinvigorating welfare state is indispensable for wiping out social injustices.<sup>44</sup> The gap between rich and poor all over the world caused by neo-liberal economy creating gross inequities and social injustices is becoming more pronounced. This is a mark of deficiencies in the implementation of The Declaration on the Right to Development whose adoption articulated the legitimate aspirations for equitable development of all human beings and all nations. It was hailed as being a turning point for laying down normative framework for creating a just world order. C. A. Colliard, a renowned professor of international law in Paris at the time the Declaration was adopted gave

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42 "Governments must urgently reform tax systems and increase public spending on free public services, to tackle inequality and prevent us being tipped irrevocably into a world that works for the few, not the many." Working for the Many : Public services fight inequality, OXFAM Briefing Paper 182, Apr. 3, 2014, *available at*: [www.oxfam.org](http://www.oxfam.org)

43 Committee on Economic, Social and Cultural Rights - General Comment No. 3 "The Nature of States parties Obligations (art. 2, para. 1) of the Covenant, adopted by CESCR on Dec. 14, 1990, Fifth session, 1990.

44 It is noteworthy that the Constitution of the United States of America was adopted in order to establish justice and promote the general welfare.

vent to high expectations raised by the adoption of the declaration: “The right to development is a new concept capable of generating and defining rules of conduct in the development of a new international world in which more justice reigns.”<sup>45</sup> Eliminating social injustices was its important vocation. To that end, the declaration called for ‘economic and social reforms.’

However, the ‘social injustices’ remain a persistent reality, and their elimination a daunting challenge. This is manifest in the International Labour Organization (ILO) Declaration on Social Justice for a Fair Globalization, adopted in 2008. The declaration underlines the need for a strong social dimension to globalization in achieving improved and fair outcomes for all. It stipulates that “Appropriate economic and social reforms must be carried out with a view to eliminating all social injustices.”<sup>46</sup> This is also manifest in the resolution on “The right to development” adopted by the United Nations General Assembly in December 2020 which recognizes that “historical injustices, inter alia, have contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparity, instability and insecurity that affect many people in different parts of the world, in particular in developing countries.”<sup>47</sup>

In proclaiming the agenda, the heads of the state/government recognized the need to foster peaceful, just and inclusive societies that provide equal ‘access to justice.’<sup>48</sup> However, social justice is not a matter of access to justice only; it is about creating a fair and just social order, which is respectful of basic principles of “equity and social justice”, as reflected in the United Nations Millennium Declaration, adopted in 2000.<sup>49</sup> An equitable international order is impossible unless all developmental endeavours are led in a spirit with genuine commitment to fostering social justice and human well-being globally. This is the rationale behind ‘The World Day of Social Justice’ - 26 November - which was launched by the United Nations General Assembly in 2007, urging all states, inter-governmental organizations, and the international community to proactively advance social development and social justice as the foundations of lasting international peace and security.<sup>50</sup> ‘The World Day of Social Justice’ celebrated

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45 Claude-Albert Colliard “L’adoption par l’Assemblée générale de la Déclaration sur le droit au développement” *Annuaire française de droit International* 622 (Edition du CNRS, XXXIII, 1987).

46 The ILO Declaration on Social Justice for a Fair Globalization, 2008, Geneva June 10, 2008, art. 8(1), available at: [https://www.ilo.org/wcmsp5/groups/public/—dgreports/cabinet/documents/genericdocument/wcms\\_371208.pdf](https://www.ilo.org/wcmsp5/groups/public/—dgreports/cabinet/documents/genericdocument/wcms_371208.pdf) (last visited on Mar. 10, 2022).

47 Resolution on “The right to development” (A/RES/75/182), adopted by the United Nations General Assembly on Dec. 16, 2020.

48 Transforming Our World: the 2030 Agenda for Sustainable Development, A/ RES. 70/1 Sep. 25, 2015, par. 35.

49 See document A/RES/55/2.

50 The World Day of Social Justice was launched by the United Nations General Assembly to reaffirm the conflict-preventive function of social justice.



each year on November 26, since 2007 should be the occasion to take steps for minimizing social injustices prevailing in the world today with increasing propensity.

Mitigating social injustices and bringing about social justice is India's Constitutional mission. The Constitution of India pledges to "secure to all its citizens: justice, social, economic and political (...) equality of status and of opportunity." Based on its responsibility under the Declaration on the Right to Development as well as its Constitutional obligations, India can become exemplary for mitigating social injustices and bringing about social justice. This can cover a broad range of actions in keeping with the provisions in India's Constitution: to "promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and protect them from social injustice and all forms of exploitation."<sup>51</sup>

Giving shape to the right to development calls for a stronger focus on equitable approaches inspired by social justice so that it becomes a bedrock "to achieve a pattern of development where dignity and human rights become a reality for all", and creates a "world that is just, equitable and inclusive" in keeping with the United Nations General Assembly resolution: "Future We Want."<sup>52</sup>

## **VI Reconceptualizing development**

If the right to development remains far from being a reality, as discussed above, this raises questions as to the legitimacy of the model or pattern of development that has been pursued. It is evident that a development trajectory which is marked by social injustices, which results in environmental degradation, aggravates poverty and inequalities and which is disrespectful of human and social well-being is devoid of any legitimacy. Similarly, a model or pattern of development in which privatization deprives citizens of their inalienable rights, such as the right to education or health, has no justification as this is violative of the right to development as an inalienable, universal human right. For the sake of saner pursuits of development, it is necessary to reconceptualize development in order to give it a human face, infused with social justice so that the development trajectory is put on the right track.

The importance of reconceptualizing development came to the fore from the reflections on the occasion of the 19<sup>th</sup> "International Encounters on New Philosophical Practices" organized at UNESCO Its theme: "The time to think; the time of thought", was based upon the reality of our world, characterized by "the lack of time for reflection in our society; the consumerist cult of comfort seems to be reluctant to effort." However, for modern era's instrumental rationality, which aims for efficiency and

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51 Constitution of India, art. 46.

52 United Nations General Assembly resolution: "Future We Want" (2012)A/Resolution 66/288, July 27, 2012.

profitability, reduces time to a capital for an optimal structure, and hardly cultivates the reflective practice of language and thought, the pause-thought’;- finding time for thinking, for reflection - is “only a waste of time.”<sup>53</sup>

The writings of some renowned intellectuals are invaluable for reconceptualizing development. Their thoughts can be inspirational for perceiving development in its human dimensions and safeguarding it from baneful effects of capitalism and neo-liberal economy. Nearly three hundred years ago, Adam Ferguson (1723-1816) in his work: *An Essay on the History of Civil Society* (1767) denounced “commercial society” and an economic system devoid of ‘human design’.<sup>54</sup> The works of Karl Marx are well known and have resuscitated renewed interest. Jean-Paul Sartre – an eminent French intellectual - was one of the leading figures in 20<sup>th</sup> Century French philosophy and Marxism. Thomas Piketty – one of the main architects of the World Inequality Report and well known for his widely acclaimed work on *Capitalism in 21<sup>st</sup> Century* has championed the cause of reducing economic and social inequities, with a strong plea for equitable economic and social order, along with propositions for the governments to mobilize financial resources for this purpose by way of taxation on the big business and corporate sector for the sake of social justice.<sup>55</sup> Recognizing the incompatibility between neo-liberal economy, free play of market forces and human rights is of paramount importance for reconceptualizing development. Reflections to that end must draw upon the expanding framework of human rights, the emerging trends towards happiness as a goal of development and notably the solidarity as a human right so that the realization of the right to development is comprehended in full measure.

### **Placing people and their well-being at the center of development**

The right to development has its genesis in the concept of solidarity human rights of third generation which goes beyond the framework of individual rights and focuses on collective rights, such as those of the community or people. The attribute of the right to development as a solidarity human right has assumed critical importance for responding to environmental degradation and climate change as a common concern of humanity. It is in this perspective that the “threat posed by climate change and environmental degradation” as one of the objectives of the 2030 Agenda for Sustainable Development must be understood. The 2030 Agenda recognizes that global nature of

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53 This was voiced on the occasion of the World Philosophy Day, celebrated on Nov.19, 2020 at UNESCO. Events on this occasion also included the 19th International Encounters on New Philosophical Practices, *available at*: <https://events.unesco.org/event?id=374013919&lang=1033>(last visited on Feb. 10, 2022).

54 In this essay, he states that “(...) nations stumble upon establishments, which are indeed the result of human action, but not the execution of any human design.”

55 Thomas Piketty, *Le Capital au XXI<sup>e</sup> siècle* ( Edition du Seuil, 2013).In order to curb social and economic inequities, he has called upon European governments to renounce certain measures which aggravate the widening gap between the rich and the poor.

climate change calls for the widest possible international cooperation for doing away with “the adverse impacts of climate change.”<sup>56</sup> It also states that “social and economic development depends on the sustainable management of planet’s natural resources.”<sup>57</sup> Environmental degradation which constitutes a menace to peoples’ happiness requires the whole humanity in a spirit of fraternity to respect and protect ‘mother earth’.

Ecuador provides a good example of protecting nature as part of the right to development as a solidary right. The concept of *sumak kawsay* – good living – is enshrined in the Ecuador’s Constitution and has its roots in local indigenous traditions. It denotes respect for the nature, recognizing natures’ rights. The concept of *sumak kawsay* makes it possible for anyone damaging or destroying nature or doing harm to it to be even legally sued. It also includes the promotion of creative diversity and a harmonious life among communities as well as between human beings and nature.

The 2030 Agenda also recognizes that “sustainable urban development and management are crucial to the quality of life of our people” and pledges to ‘reduce the negative impacts of urban activities’ and of chemicals which are hazardous for human health and the environment.<sup>58</sup> However, development projects continue to be executed mostly in developing countries as evidenced by sprawling of megacities, thus accelerating urbanization which in fact facilitates the market operations of the corporate sector across vast urbanized regions, even if this adds to pollution and environmental degradation.

Protecting humankind from environmental degradation is indeed urgent in a spirit of solidarity and international cooperation, based on the right to development as a collective solidarity right. The solidarity dimension of the right to development is also implicit in the international legal commitments under the Paris Agreement (2016)<sup>59</sup> to combat climate change with strengthened global response to its threats; under the United Nations Framework Convention on Climate Change (1992) and the Convention on Biological Diversity (1993) which affirms that “the conservation of biological diversity is a common concern of humankind” and establishes a legal framework to “conserve and sustainably use biological diversity for the benefit of present and future generations.” States must comply with their legal obligations under all these conventions.

Placing people and their well-being at the center of development is inextricably linked with the concept of concept of human development and the rationale underlying it,

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56 Transforming our world: the 2030 Agenda for Sustainable Development, A/ RES. 70/1, Sep. 25, 2015 par. 31.

57 *Id.*, par. 33.

58 *Id.*, par. 33.

59 Paris Agreement, opened for signature on Apr. 22, 2016 – Earth Day – at UN Headquarters in New York, entered into force on Nov. 4, 2016.

questioning mere economic growth-led model of development.<sup>60</sup> Embracing such a concept enriches the nature and scope of the right to development, enshrined in the Declaration on the Right to Development.

### **Embracing the concept of human development**

Emergence of the concept of 'human development' was a ground breaking development in reconceptualizing development. It is premised upon the postulate that instead of being seen merely in terms of economic growth, development should be viewed in term of its human dimension. It should enable people to lead a healthy life, with decent standard of living. Opportunities it creates should be fair for all people. In such a rationale behind the human development, the idea that development cannot be compatible with capitalism is implicit since capitalism creates opportunities for human exploitation and thrives on it. Nor can human development accommodate free play of market forces as these engender social disparities and social injustices. To be human, development must place people at the center of the development process, as stipulated in the Declaration on the Right to Development.

In appraising the realization of the right to development in that perspective, the human development index of the United Nations Development Programme is a milestone. It was created in an attempt to move away from the simple reliance on Gross Domestic Product (GDP) as a measure of welfare, and includes real income, lifespan and educational attainment. In that spirit, the Human Development Report,<sup>61</sup> launched by the United Nations Development Programme in 1990's, examines key trends and issues in development, along a Human Development Index (HDI) as a measure of average achievement in the basic dimensions of human development across countries. Human well-being as well as social development is the mark of such achievement. It will be apropos to give consideration to such achievement in the implementation of the right to development. Moreover, happiness as a fundamental human goal imparts added significance to such achievements.

### **Happiness as a fundamental human goal and the right to development**

Happiness as a fundamental human goal has been another important landmark in reconceptualizing development. A holistic approach to development with happiness as a fundamental human goal was recognized by the international community in

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60 A decade ago, the High Commissioner for Human Rights recognized "the necessity to place the human being at the centre of our development policy and to adjust our analytical lens accordingly." See Human Rights Indicators – A Guide to Measurement and Implementation, Office of the High Commissioner for Human Rights, Geneva, 2012 (Forward) 5.

61 The Human Development Report (HDR) is a Human Development Index report published by annually the Human Development Report Office of the United Nations Development Programme since 1990.

2011.<sup>62</sup> Bhutan was its progenitor. In lieu of Gross Domestic Product (GDP), Bhutan embraced an alternate model of development, based on the Gross National Happiness (GNH), which seeks to promote the values of individual and social well-being that focus on the pursuit of the overall cultural and spiritual well-being for the sake of happiness. Taking into consideration the concept of the GNH as a novel approach to human development, the United Nations General Assembly invited Member States to “pursue the elaboration of additional measures that better capture the importance of the pursuit of happiness and well-being in development with a view to guiding their public policies”,<sup>63</sup> thus recognizing the importance of human well-being and happiness in a country’s development endeavour. Bhutan in fact embraced a radically new concept of development which discards market-centred model of development and which gives primacy to values for promoting individual and social well-being.

One can expect that, recognizing human happiness as a development goal, much more considerations will be given by the international community to discarding market-centred pattern of development and to embracing, instead of it, a model of human development with the values of individual and social well-being as its core objective. This will be a necessary follow-up to the acknowledgement by the international community several years ago that “The exclusive pursuit of economic growth and rising incomes as an objective of development has long been questioned”, frequently underscoring “the divergence between economic and social policies and the lack of monitoring of the social impact of economic policies.”<sup>64</sup> The celebrations on the occasion of the International Day of Happiness on March 20, proclaimed by the United Nations in 2012, can be propitious for engaging in reflections and actions, considering happiness and well-being as universal goals and aspirations of human beings around the world.

In this respect, it is pertinent to refer to the Declaration of Independence (1776) by 13 United States of America<sup>65</sup> which establishes the “pursuit of happiness” as an unalienable human right. This is laudable. Happiness *qua* happiness cannot be a right since it is subjective. However, the *pursuit* of happiness can be a right, with state obligations to foster it. A state should endeavor to remove obstacles in the pursuit of happiness such as inequitable socio-economic system, prevalence of poverty, lack of access to essential public services etc. In order to facilitate the enjoyment of the right

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62 The United Nations General Assembly Resolution: “Happiness: towards a holistic approach to development”, A/RES/65/309, adopted on July 19, 2011.

63 *Ibid.*

64 Happiness: towards a holistic approach to development: Note by Secretary-General, A/67/697, Jan. 16, 2013 at par. 3

65 This Declaration, proclaimed on July 4, 1776, states: “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”

to pursuit of happiness, the state also has the obligation to create opportunities its citizens necessary for the realization of their potential.

### **Realization of human potential as a development objective**

Human development necessarily implies development of human personality. The stipulations in the Universal Declaration of Human Rights that the right to education has the objective of the “full development of human personality” are conceptually linked with the right to development and must be understood in a broader perspective to include the realization of a person’s potential. That depends in the first place upon how the State fulfills its responsibility for enjoyment of the right to education as a fundamental human, established by the Universal Declaration, by the UNESCO Convention against Discrimination in Education and by the international human rights conventions, notably the International Covenant on Economic, Social and Cultural rights. At the same time, education must kindle in every child the spirit for full realization of its potential. Such a quest is a basic building block for human development. Its importance is recognized in the 2030 Agenda for Sustainable Development, to which governments remain committed. The Agenda envisages a world of “equal opportunity permitting the full realization of human potential and contributing to shared prosperity.”<sup>66</sup> Every human being has some innate potential, and creating a socio-economic and cultural environment conducive to flourishing of human talents and human creativity is an essential attribute of human development which deserves much more consideration in the context of the right to development and its realization.

Education respectful of the essential objectives assigned to it by the UDHR makes meaningful contribution to the realization of the right to development in another way. It can be instrumental in overcoming the ‘value-crisis’, already mentioned, with which our societies are afflicted. The values-based education is invaluable for uprooting the ‘value-crisis’. A system of values-based education nurtures in children and adults ethics, moral and spiritual values. These should be a part of basic ‘learning needs’ as stipulated in the World Declaration on Education for All, adopted by the Ministers of Education in 1990, so as to ‘empowers’ individuals in any society with a sense of a responsibility to “further the cause of social justice, (...) ensuring that commonly accepted humanistic values are upheld (...).”<sup>67</sup> In the same spirit, upholding the cause of ‘value-education’, the World Declaration on Higher Education for the 21<sup>st</sup> Century, adopted at UNESCO in 1998 gave the call to the public authorities to “help protect and enhance societal

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66 Transforming our world: the 2030 Agenda for Sustainable Development, A/ RES. 70/1. 25 Sep. 25, 2015 par. 8

67 World Declaration on Education for All, adopted at the World Conference on Education for All, Jomtien (Thailand), 1990, see art. 1 and 2 on ‘Meeting Basic Learning Needs.’

values and the reinforcement of humanistic perspectives,” (...) “inspired by love for humanity and guided by wisdom.”<sup>68</sup>

However, the moral and ethical values continue decline in spite of these exhortations by the international community. Paramount importance, should, therefore, be given to the humanistic mission of education as against the predominance of materialistic pursuits engendered by the neo-liberal economy and corporate culture. As the International Commission on Education for the Twenty-First Century constituted by UNESCO stated in its Report (1996), “In confronting the many challenges that the future holds in store, humankind sees in education an indispensable asset in its attempt to attain the ideals of peace, freedom and social justice”<sup>69</sup> – ideals which are at the core of human development. A new architecture of education with human values as its bedrock can pave way for a “new global ethics for our common humanity”<sup>70</sup> whose need was recognized in formulating the 2030 Sustainable Development Agenda. This is the surest way of putting the right to development on the right track and making it a living and lasting reality.

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68 World Declaration on Higher Education for the Twenty-First Century: Vision and Action, adopted at UNESCO in 1998. Art. 1 and 2 (d). The text of the Declaration is, *available at*: [http://www.unesco.org/education/educprog/wche/declaration\\_eng.htm](http://www.unesco.org/education/educprog/wche/declaration_eng.htm) (last visited on Feb. 20, 2022).

69 Report to UNESCO of the International Commission on Education for the Twenty-First Century: “*Learning: the Treasure within*”, Highlights 16 (UNESCO Publishing 1996).

70 The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, “A New Global Partnership”, *available at*: [http://www.un.org/en/development/desa/policy/untaskteam\\_undf/HLP%20P2015%20Report.pdf](http://www.un.org/en/development/desa/policy/untaskteam_undf/HLP%20P2015%20Report.pdf) (last visited on Feb. 20, 2022).