



## **Prince Claus Chair Roundtable on the Right to Development**

27 May 2015

at

The Hague Institute for Global Justice, The Hague

*Theme: Thinking Ahead: The Right to Development Approaching 30*



## **1. Background**

On 27 May 2015, a High-Level Roundtable on the theme “Thinking Ahead: The Right to Development Approaching 30” was held at The Hague Institute for Global Justice. The Roundtable was co-organised by the Prince Claus Chair, the International Institute of Social Studies (of Erasmus University Rotterdam) and The Hague Institute for Global Justice, in collaboration with the United Nations Office of the High Commissioner for Human Rights. The Roundtable involved a dialogue between a select number of internationally renowned experts in the field of public international law, international human rights law and development.

In December 2016, the world will celebrate the 30<sup>th</sup> anniversary of the United Nations Declaration on the Right to Development (UNDRTD). This Roundtable was most likely the first event commemorating this milestone anniversary. There will no doubt be many more to follow. Heightened interest in the Right to Development (RTD) is certainly desirable. However, inevitably the upcoming 30<sup>th</sup> anniversary of the UNDRTD also draws our attention to the fact that since 1986 the efforts to establish this human right fully have had debatable levels of success.

The UNDRTD conceptualizes development in a holistic manner as a phenomenon and process that has economic, social, cultural and political dimensions. It places the human person squarely as the central subject of development. In broader terms, i.e. much beyond the UNDRTD, the shift from an economic to a multiple-natured and human-centred development process is a welcome progression. Nevertheless, there are still doubts as to the exact nature and extent of the entitlements and duties that the RTD generates. Accountability for the RTD and its justiciability are particular concerns. Within multilateral and bilateral international cooperation, including in the framework of the United Nations (UN) system, progress in implementing the RTD has been hindered by conceptual ambiguity and political considerations from both developed and developing states.

The Roundtable was organized to explore whether there are reasons and ways to revitalise the RTD, for example by developing pragmatic and/or alternative approaches. By so doing, the speakers and participants to the Roundtable sought to generate concrete and innovative recommendations on how the RTD could be pursued with new vigour today and in the future. The Roundtable discussed and focused on selected areas including the implementation of the Right to Development as it pertains to the environment, health, and education. Implementation of the RTD through the Sustainable Development Goals (SDGs) and the post-2015 development agenda was also considered. Furthermore, the past and current efforts of the United Nations Office of the High Commissioner for Human Rights on the revitalization of the Right to Development were highlighted and discussed.

In accordance with the above, in summary, the primary aim of the Roundtable was to review the continued relevance of the Right to Development as conceptualized in the UNDRTD. Also on the agenda was a reflection on how the Right to Development could be revitalized and implemented to equitably meet the developmental and environmental needs of the present and future generations.



## 2. Highlights

In his welcoming remarks **Dr. Abiodun Williams**, President of The Hague Institute for Global Justice and host of the event, stressed the significance and timing of the event, especially as 2016 will not only mark the 30<sup>th</sup> anniversary of UNDRTD but also witness the first efforts to implement the new global development agenda, which might come with the expected endorsement of the UN Sustainable Development Goals (SDGs) in September. He reminded participants of the fact that former UN Secretary General Kofi Annan, in his report ‘In Larger Freedom’, had stated that “our guiding light must be the needs and hopes of peoples everywhere. We must aim to perfect the triangle of development, freedom and peace.”<sup>1</sup> According to Dr. Williams, the RTD is an important conceptual mechanism for achieving this central aim. He concluded his remarks by noting that, as the RTD approaches its 30<sup>th</sup> anniversary, it is particularly compelling to seek ways by which it can guide the post 2015 development agenda.

**Mr. Bat-Erdene Ayush**, Chief of the Right to Development Section, Research and Right to Development Division, OHCHR – Geneva, gave an overview of the current OHCHR approach towards the implementation and realisation of the RTD. He began by conveying the gratitude of the OHCHR to the organisers of the event. He noted that it was high time to further discuss and demystify the RTD. Mr Ayush indicated that even as negotiations are ongoing in New York on the final text of the SDGs, there were differing views among states on the extent to which the RTD be included in the SDGs agenda. He noted, however, that the RTD has been consensually reaffirmed by all states in the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights (1993). He

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<sup>1</sup> Kofi Anan, ‘In Larger Freedom: Towards Development, Security and Human Rights for All, Report of the Secretary-General’, UN Doc A/59/2005, at p. 5.



highlighted that, as part of the commemoration of the 30<sup>th</sup> anniversary of the UNDRTD, the OHCHR intends to partner in several events (including the PCC Roundtable) and will be reporting on them to the Human Rights Council.

**Professor Ton Dietz**, Director of the African Studies Centre, Leiden (The Netherlands) and Vice Chair of the Prince Claus Chair Curatorium, gave the final opening remarks. He accentuated the need to give a broader meaning to ‘development’. Professor Dietz noted that it is paramount to achieve both inclusive and sustainable development. He cautioned the view that seems to portray the global South as the primary beneficiary of the RTD. Therefore, any endorsement of the RTD in the SDGs must be secured for all global citizens. Professor Dietz expounded that, to revitalise the RTD, its enforceability, the extra-territorial scope of State obligations and the role of global institutions in its realisation need to be further clarified. Recent global crises such as the Ebola Virus Disease (EVD) in parts of West Africa, violence by groups like Boko Haram in Nigeria, and the deadly crossing of the Mediterranean by migrants escaping conflict and poverty provide concrete examples to situate the current slag in the realisation of the RTD. He concluded by noting that these events raise fundamental questions as to whether the victims of these crises have a right to development and whether there is a further right to achieve their development by exploiting the resources and opportunities that might exist beyond their territorial borders.

### Session I

**Professor Jumoke Oduwole**, Holder of the Prince Claus Chair in Development and Equity (International Institute of Social Studies, of Erasmus University Rotterdam), chaired this session in which the speakers were invited to reflect on issues such as whether or not there is an added value in the notion of the RTD? What role should pragmatism play in the future implementation of the RTD? What might be the benefits of negotiating an international framework treaty on the RTD? Should the RTD be addressed explicitly in the SDGs and if so, how should this process be conducted?



**Dr. Shyami Puvimanasinghe**, Human Rights Officer, Right to Development Section, Research and Right to Development Division, OHCHR – Geneva, gave an overview of past and current developments in the UN on revitalising the right to development. Dr. Puvimanasinghe reiterated the fact that the RTD continues to be reaffirmed as a human right in different UN development instruments and documents. She noted that, as part of its mandate on the RTD, the OHCHR insists on the need for human centred development, especially as it is being recognised that material prosperity alone cannot ensure inclusive development and the composite realisation of human rights. Dr. Puvimanasinghe underscored the fact that the OHCHR is urging states to implement the RTD as a framework for an alternative vision for sustainable development. As part of its mandate to promote and protect the RTD, the OHCHR publishes yearly reports on the achievements and mainstreaming of the RTD. In 2011, the OHCHR organized several events to mark the 25th anniversary of the UNDRTD. Since then the office has embarked on disseminating the core concepts, elements and principles that follow from the RTD. Several events were co-organised, for example with the Non-Aligned Movement, the Inter-Parliamentary Union and the Organisation of Islamic Cooperation. Within the UN system, the OHCHR has also brought together different UN system agencies and committees to engage in constructive dialogue for achieving the RTD.

**Professor Koen De Feyter**, University of Antwerp (Belgium), discussed the possibility and benefits of negotiating an ‘International Framework Convention’ on the implementation of the RTD. He suggested that, unlike the adoption of ‘Guidelines’ on the RTD as advocated for by the European Union, or a binding human rights treaty, which is very much supported by the majority of developing countries, a Framework Convention on the RTD could bring added value and help to bridge ideological and political divides on the RTD. Besides clarification of the normative framework for RTD, a Framework Convention could also create a designated forum for debate (conference of parties) on the RTD. Over time, this could possibly lead to the adoption of protocols to move the debate beyond principles. The negotiation of a Framework Convention could also provide a valuable space for updating the UNDRTD. Substantive issues such the rights of indigenous peoples, the sustainability and gender dimensions of the RTD, which are missing in current UNDRTD, could be addressed. A Framework Convention might also reinvigorate the principle of accountability for development partnerships and the multi-stakeholder approach, which today is central in development studies. Professor De Feyter concluded by drawing examples from the EU – Bangladesh Sustainability Compact that was negotiated in 2013 to ensure mutual commitments towards human rights in the garment industry in Bangladesh. However, he cautioned that a downside of a compact is that too often only weak parties are monitored and held to account.

**Professor Sigrun Skogly**, University of Lancaster (United Kingdom), elaborated on the potential of the SDGs and the post-2015 Agenda for implementing the RTD. Professor Skogly reflected on the slender approach towards human rights and in particular the RTD in the MDGs. If the post 2015 development agenda that will come with the SDGs will be more explicit on human rights, then it might provide leeway for revitalising the RTD. International law needs to defuse the current negative perceptions of being seen as ‘enemy of the people’ by positioning itself as pro-development. Professor Skogly argued that Article 28 of the Universal Declaration of Human Rights (UDHR) “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized” provides a normative grounding for international human rights in development. In particular, Article 28 can enhance the SDGs conceptualisation of the RTD in terms of its definition of development, participation/consultation process and the complexity of the obligations, including the obligations of non-state actors, towards the implementation and realisation of the RTD.

## Session II

**Professor Karin Arts**, International Institute of Social Studies (of Erasmus University Rotterdam), chaired Session II, which dealt with issues such as the need to explore the developments that have occurred in various regimes of international law and policymaking, for which could hold important lessons for a possible revitalisation of the RTD. Speakers were invited to examine what might be the possible linkages between human rights and other areas such economic law, the environment and health.



**Professor Isabella Bunn**, University of Oxford (United Kingdom), presented an overview of the intersection between the RTD and international economic law. She argued that, despite the UNDRTD being very thin on aspects of international economic law, economic law is indispensable for a meaningful implementation of the RTD. Over the years, there has been increasing reference to international economic law in several UN Resolutions and documents on the RTD, including UN General Assembly Resolution 64/172, which “recognizes the important link between the international economic, commercial and financial spheres and the realization of the right to development.”<sup>2</sup> More emphasis has also been laid on the relationship between the RTD and economic partnerships, the need for developing countries to participate meaningfully in global economic institutions, the fight against corruption and corporate social responsibility. Professor Bunn was of the view that the currently negotiated SDGs, and in particular its Goals 16 and 17, reinforce the expectations of a more accountable and equitable global economic order, which are at the core of the RTD. There is also a growing literature on the intersection of the RTD and international trade, especially the claim that revenue generated from international trade can further the realisation of human rights. However, Professor Bunn also highlighted the failures of the Doha Round and its Development Agenda as a major setback for the RTD. From an institutional perspective, the World Bank - through its Global Forum on Law, Justice and Development - is now actively engaging with issues surrounding environment, sustainable development and human rights.

**Professor Nico Schrijver**, Leiden University (the Netherlands), spoke of the possibility of linking human rights, environment and development as an avenue towards revitalising the RTD. He began by reinstating the view that the RTD exists and is embodied in legally

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<sup>2</sup> UN General Assembly Resolution 64/172 (2010), paragraph 27.

binding standards in international law. The latter include the UN Charter, UDHR, the Covenants on human rights and some other UN human rights instruments such as the Convention on the Rights of the Child. Professor Schrijver indicated that the RTD in its current form is relevant at least in three ways. First, as reinforcing the indivisibility of human rights (i.e. linking civil, political and economic, social and cultural rights). Second, as an integrative approach for realising human rights and third as an inter-generational concept, especially as regards its sustainable development aspect. Professor Schrijver cautioned that the substantive nature of the RTD seems a bit overshadowed by the current debates on negotiating a binding treaty on the RTD. The UNDRTD itself is a very helpful instrument in providing for a contemporary interpretation of all useful instruments relating to the RTD. Various UN bodies have furthered this by providing ‘Additional Statements’ and General Comments on the content of the RTD. An example is the ‘statement’ issued by the Economic, Social and Cultural Rights Committee on the occasion of the 25th anniversary of the UNDRTD, highlighting the pertinence of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to the RTD, and also a ‘joint statement’ on the RTD by the Chairs of the different UN Treaty Bodies.<sup>3</sup>

**Dr Gorik Ooms**, Institute of Tropical Medicine, Antwerp (Belgium), discussed implementing the right to development in health by drawing lessons from the Ebola Virus Disease (EVD). He highlighted the fact that international health assistance has increased dramatically over the last 20 years but mostly targeted control of infectious diseases such as AIDS, Tuberculosis and Malaria. He noted that, although the Constitution of the World Health Organisation (WHO) adopts a right to health approach, it has used its mandate to elaborate international law chiefly for infectious disease control, which unfortunately only forms one part of the right to health. From a global health governance perspective, an attempt to realise the right to health in its entirety and moving beyond the infectious disease approach came with the WHO strategy entitled ‘Health for all by the year 2000.’<sup>4</sup> Dr Ooms outlined the shift of global health leadership from the WHO to the World Bank and global health initiatives like the Global Fund to Fight AIDS, Tuberculosis and Malaria – which are less democratic than the WHO, if one uses the ‘one country, one vote’ principle – as primarily motivated by the requirements of global infectious disease control. Looking at the EVD one would think that global interests are aligned in fighting infectious diseases. However, under the International Health Regulations,<sup>5</sup> the obligation to fight against infectious diseases such as EVD are bestowed on states. The obligation of the international community to provide assistance is formulated in much weaker terminology. Dr Ooms sees this approach as being problematic because most poor countries do not have the resources to fulfil those obligations. Countries like Sierra Leone, Liberia and Guinea, which were the worst affected by the recent outbreak of EVD, have very weak health infrastructures and are heavily dependent on short-term international assistance and commitments while not capable of building a resilient health system if left on their own devices. While a truly democratic global health governance system is still distant, it is important to identify interests that are aligned and use the available resources geared towards such targets smartly.

### **3. Issues raised and discussions**

There was broad consensus among the Roundtable speakers and participants on the fact that the RTD has not lost its relevance, utility, and therefore the need for its revitalisation. Broader discussions centred on aspects such as:

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<sup>3</sup> ‘The Right to Development: Report of the Secretary-General and the United Nations High Commissioner for Human Rights’, A/HRC/19/45 (8 December 2010). See in particular Annexes III and IV.

<sup>4</sup> <http://whqlibdoc.who.int/publications/9241800038.pdf>, last consulted 13 July 2015

<sup>5</sup> [http://whqlibdoc.who.int/publications/2008/9789241580410\\_eng.pdf?q=international](http://whqlibdoc.who.int/publications/2008/9789241580410_eng.pdf?q=international), last consulted 13 July 2015



- The basis of holding actors accountable for the RTD;
- Is the RTD a substantive right or a precondition for the enjoyment of other rights?
- What makes the RTD different from other human rights?
- Should the substance of the RTD be given priority over compliance?
- Can the global consensus on environmental issues form the basis for revitalising the RTD?
- What could be the role of civil society in revitalising the RTD?
- How to avoid the RTD being used by some States as a justification for not addressing governance issues, including bribery and corruption;
- The aspect of peace and security needs to be brought to the fore in the discourse on the RTD, especially taking into consideration the numerous conflicts currently ongoing around the globe;
- Reinforcing the shared but differential responsibility for the RTD in international law;
- The RTD should not be framed as a right for peoples in developing states only. The current financial crises emphasizes the need to situate the RTD as a global entitlement.

Some participants raised concerns about the fact that too much emphasis on the extraterritorial obligations of States towards the RTD can further derail their commitments. It was noted that most developing countries are more concerned about the current global institutions such as the IMF and the World Bank, which are seen as exploitative and non-representative. While emerging powers such as those in Asia are currently changing the dynamics, for example with the recent creation of the Asian Infrastructure Investment Development Bank, the concerns of an unjust international economic order need redress.

#### 4. Conclusion

The Roundtable was a stimulating exercise in which speakers and participants were able to articulate both their optimistic and pessimistic perspectives on the existing normative frameworks on the RTD. It was also a unique opportunity to reiterate the importance of the RTD and to further clarify and interpret its existing instruments. Despite the conceptual inflation surrounding the RTD there was the recognition that the inequities that continue to mar global policy and institutions, as well as current global crises such as the EVD and the waves of immigration across the Mediterranean lays bare the continuous relevance of revitalising the RTD. The RTD offers a unique opportunity to advocate for an equitable policy space. However, it was recognised that in order to move forward on the RTD, there is need for both the donor countries and the Non-Align Movement to change their rhetoric and to engage in newer ideas and opinions that are not immediately defaulting along political lines.

In his closing remarks **Professor Leo de Haan**, Rector of the International Institute of Social Studies (of Erasmus University Rotterdam) underscored the relevance of the RTD and the human rights-based approach within the academic and policy profile of the International Institute of Social Studies and in particular the Prince Claus Chair. It was announced that the contributions from the speakers at the Roundtable would be made available as chapters in an edited volume on *The Right to Development at 30* to be published in 2016 by a reputable international academic publisher.



## Annex

### Speakers and Participants

Title	Last Name	First Name	Position	Organisation
Prof. Dr.	Arts	Karin	Professor of International Law and Development	International Institute of Social Studies, The Hague - NL
Mr.	Ayush	Bat-Erdene	Chief, Right to Development Section, Research and Right to Development Division, OHCHR - Geneva	OHCHR - Geneva
Prof. Dr.	Bunn	Isabella	Professor of Ethics and International Economic Law	University of Oxford - UK
Dr.	Baetens	Freya	Associate Professor of Public International Law	Leiden University - NL
Prof. Dr.	Dietz	Ton	Director	African Studies Centre, Leiden - NL
Prof. Dr.	de Haan	Leo	Rector	International Institute of Social Studies, The Hague - NL
Prof. Dr.	De Feyter	Koen	Professor of International Law and Development	University of Antwerp - BE
Prof. Dr.	Donders	Yvonne	Professor International Human Rights and Cultural Diversity	University of Amsterdam - NL
Prof. Dr.	Hutter	Inge	Professor of Demography	University of Groningen - NL
Ms.	Johnson	Linda	Executive Secretary	International Institute of Social Studies, The Hague - NL
Prof. Dr.	Oduwole	Jumoke	Holder of the Prince Claus Chair in Development and Equity	International Institute of Social Studies, The Hague - NL
Dr.	Ooms	Gorik	Professor of Global Health Governance and Human Rights	Institute of Tropical Medicine, Antwerp - BE
Dr.	Puvimanasinghe	Shyami	Human Rights Officer, Right to Development Section, Research and	OHCHR-Geneva

			Right to Development Division	
Prof. Dr.	Skogly	Sigrun	Professor of International Law and International Human Rights Law	University of Lancaster - UK
Prof. Dr.	Schrijver	Nico	Professor of Public International Law	Leiden University - NL
Prof. Dr.	Taekema	Sanne	Professor of Jurisprudence	Erasmus University Rotterdam
Dr.	Tamo	Atabong	Post-doc Researcher, International law and Development	International Institute of Social Studies, The Hague - NL
Ms.	van der Have	Nienke	Ph.D Candidate in International Law	University of Amsterdam -NL
Dr.	Vandenbogaerde	Arne	Researcher in International Law and Development	University of Antwerp - BE
Dr.	Williams	Abiodun	President	The Hague Institute for Global Justice, The Hague - NL