

## **Call for inputs: Views and proposals on a draft legally binding instrument on the right to development**

### **Type of the instrument:**

1. Should the instrument be principally
  - a. a framework convention,
  - b. a treaty focusing on inter-state relations defining rights and obligations of States,
  - c. a treaty modelled on existing human rights treaties, defining the rights of individuals and peoples and corresponding obligations of States and non-state actors;
  - d. an instrument combining existing models of human rights treaties with inter-State rights and obligations; or
  - e. another instrument or agreed outcome?

ODVV believes that the instrument needs to be in the form of a framework convention that creates legal obligations for ALL States to join in and come to an agreement to effectively deal with a global issue such as development.

### **Content of the instrument:**

2. Which previous instruments and provisions should be referenced in the preamble?
3. Which considerations should be incorporated in the preamble?

The instrument should reaffirm the Convention on the Right to Development.

4. How should the object and purpose of the instrument be formulated?

The purpose of the instrument should be realization of the right to development in ALL countries especially the developing and under developed countries WITHOUT discrimination of any kind.

5. Which elements should be included in the instrument and how should it be structured?
6. Which duty bearers, in particular non-state actors, should be included?
7. Which obligations should the instrument concretize?

ODVV believes that it is necessary that some provisions of the instrument ban the use of political tools or economic measures including Unilateral Coercive Measures (UCM)s by some States to prevent development from taking place in other States.

Considering the fact that it is vital for ALL countries to move in the path of development without discrimination and it is necessary for ALL states to have **equal** access to international systems, mechanism and instruments needed for development, ODVV believes that some provisions of the instrument must ban international organizations and service providers such as the SWIFT (Society for Worldwide Interbank Financial Telecommunication) from being politically abused by some States to seriously prevent the development process in other countries.

ODVV strongly believes that the instrument must commit ALL States to refrain from violating the right to development in other countries. Moreover, the instrument should consider **punishments** for the States that violate or prevent the right to development in other States. Or the instrument can consider especial implementation guarantees that prevent some States from violating the rights of other States to development.

ODVV suggests a compensation mechanism to be defined in the instrument to bring to justice the perpetrators of violation of right to development in other States and to compensate for the loss

of victims.

8. How should the relationship with other rights and obligations under international law be determined?

**Institutional arrangements:**

9. What type of institutional arrangements should be foreseen?
  - a. A conference of State Parties with subsidiary bodies?
  - b. An expert body with the mandate to submit reports on its work to the General Assembly, adopt recommendations, views and general comments?
10. Which entity should serve as the Secretariat?
11. Should there be a funding mechanism for covering the costs of the institutional arrangements and implementing recommendations?

ODVV believes that there must be a monitoring body such as the thematic mandate holder on the right to development to monitor and report the situation in all State parties and non-state parties in terms of their commitment or lack of commitment to the instrument and their attempts to attain development goals and their support of development to take place in other States or prevention of development in other states.

**Compliance, monitoring and enforcement arrangements:**

12. What type of compliance, monitoring and enforcement procedures should be envisaged?
  - a. A compliance committee with a facilitation and enforcement branch?
  - b. A reporting procedure with periodic reports, reviewed by an expert body?
  - c. A self-assessment combined with a peer review mechanism?
  - d. A communications procedure?
  - e. An inquiry procedure?
  - f. An inter-State complaints procedure?
  - g. An advisory opinion procedure?
  - h. Should some procedures be optional and if, should the procedures be included in the text of the instrument in the form of an opting in or opting out clause or in an optional protocol?
  - i. How should the relationship with other relevant procedures and mechanisms be determined?

**Final provisions:**

13. What elements should be specified in the final provisions?
  - a. Who can become a party to the LBI?
  - b. What is the desired number of ratifications for entry into force?
  - c. Should reservations be possible?
  - d. Should there be a clause on dispute resolution with respect to the interpretation or application of the instrument with jurisdiction of the International Court of Justice?
  - e. Should there be a clause concerning the possibility to denounce the agreement?