Rule of Law and Development Cooperation in Times of Crisis: Future Perspectives

Moderator: Kirandeep Kaur

Speakers: Rimma Grishmanovskaya (Tilburg University), Andrew Solomon (Rule of Law IDEAS Co-Lab), and Yasah Musa Kimei (Nubian Rights Forum)

The event began with a brief introduction to the 'Shifting Discourses in Rule of Law Cooperation' project, and a discussion of the project's main findings.

The first speaker was Ms. Rimma Grishmanovskaya (Tilburg University and Shifting Discourses project leader).

Ms. Grishmanovskaya began by providing some context and background for the '**Shifting Discourses**' **project**. She reflected on some of the rhetorical shifts the field of Rule of Law, and development cooperation more broadly, that have been taking place over the last few decades. She noted that there is a strong discursive shift, evident in the widespread endorsement and adoption of concepts including localization, people-centered justice, the #shiftthepower movement, among others. However, she pointed out that the discursive shifts did not always translate into meaningful change.

The 'Shifting Discourses' project sought to understand the gap between discursive shifts and practice. The findings from the research conducted within this project were shared in the **Policy Report: Shifting Discourses in Rule of Law Cooperation**, which unpacks some of the assumptions that shape Rule of Law and wider development cooperation. The **first assumption** was on the 'myth' of the universality of Rule of Law, which is rooted in Western liberal democracy, and views the rule of law as a universal value that can be transplanted across contexts around the world. Since the release of the report, there has been a dramatic shift away from liberalism and liberal values in the West as well, and it is to be seen how this will impact rule of law cooperation moving forward.

The **second assumption** was that development cooperation is neutral and benevolent. This assumption perpetuates the **power imbalances** in the system, in particular decision-making power in terms of designing interventions and distribution of resources. Concepts like localization can become performative box-ticking exercises when the inherent power dynamics that lie at the core of development cooperation discourse are not tackled. For **localization** to be meaningful, addressing these power imbalances needs to be the first step. This becomes particularly

important in the current shifting global landscape. The **third** assumption was the persistent undervaluing of local knowledge, and the patronizing of local actors. There was an assumption that their capacity is limited, and that this limited capacity only allows them to act as implementers of projects. Local actors are framed as the worker bees who make external visions, initiatives, and ideas a reality, rather than as knowers who have their own visions of justice, Rule of Law, and development processes.

The analysis of these assumptions meant there is a need for concrete solutions and actions that development cooperation stakeholders—donors, intermediary organizations, locally-led organizations, among others—can implement, without requiring a radical overhaul of their practices. The report proposes the idea of **'targeted and incremental steps'**, an approach which entails acting from within the existing system, using existing practices, tools, and methods, but adapting them to incorporate locally-led principles.

Key recommendations:

1. Centering the ethics of development that challenges neocolonial dynamics and the prevalence and power imbalances. This means centering mutual accountability in Rule of Law and development cooperation partnerships.
2. Moving beyond the traditional project cycle through adaptive programming and adaptive delivery.
3. Shifting to adaptive governance models, which entails a paradigm shift away from viewing 'local' actors as stakeholders but as shapers of development interventions.

> *"Shifting to adaptive governance […] means that local actors are not just having a seat at the table, but they can shape the table itself or perhaps **choose a different type of furniture to sit at**."*

Ms. Grishmanovskaya closed her intervention by stressing that **there is a need to fundamentally challenge the core assumptions** that endure at the core of Rule of Law and development cooperation. A paradigm shift is necessary to ensure that localization does not just remain a trend, especially now with the ongoing crisis in international development cooperation. She emphasized that this is an **opportunity to reassess uneven power dynamics and to create a new system** that can serve the sector and all actors in the system better.

The moderator asked Ms. Grishmanovskaya to expand on how the policy paper, **['Direct Partnerships with Local Organisations Opportunities, Risks and Setting a Research Agenda'](#)** – which was also an output of the Shifting Discourses project—helped expand some of the ideas from the Report.

Ms. Grishmanovskaya emphasized that the 'targeted and incremental steps' approach remains relevant despite all the changes in international development cooperation. It is necessary to bridge academic research and practice, stating that critical legal scholarship has been discussing some of these issues around power imbalances and tokenization of local actors, and has introduced some ideas and tools, and practice is beginning to catch up with these ideas. At the same time, practice is going through a major overhaul. She views researchers as a resource for practitioners and vice versa. She added that a research agenda was outlined in the Policy Paper and also encouraged researchers to take up some of the research ideas that were proposed. In particular, she pointed to the need for further research on mutual accountability, as questions around accountability are always central in Rule of Law and development cooperation more broadly.

The moderator introduced the next speaker, Mr. Andrew Solomon ([Rule of Law IDEAS Co-Lab](#)).

Mr. Solomon began his intervention with an overview of the cuts to development funding that are taking place across different donors. Approximately $43 billion in funds for international development cooperation is being cut by the United States, of which around $540 million was for Rule of Law. This was accompanied by mass layoffs at USAID, resulting in the loss of human talent and loss of many partnerships that had taken many decades to build. He stressed that it is fundamental to ensure that this human talent, expertise, and organizational capacity is not lost, in particular at the local level.

He expanded on the current development funding landscape, which is facing cutbacks beyond the dismantling of USAID; several donor countries like the Netherlands and the UK have announced cuts to development funding. There is a worldwide 30-40% decrease in funding in the past decade. All of these changes are creating disruptions to the international development field and will exacerbate the pre-existing challenges faced by the justice sector or may even create new ones. He invited everyone to begin rethinking and reimagining how to design, deliver, and finance Rule of Law and justice system reform to meet the challenges ahead.

Mr. Solomon emphasized the importance of people-centered justice systems and services, and called for more innovation in these systems, including through the adoption of new digital technologies. He pointed to other sectors within international development like health, economic growth, education, which are already starting to chart new ways forward as a result of the disruptions to the wider sector. He stressed that Rule of Law and security needs to catch up.

He discussed the findings presented in the [**Policy Report: Shifting Discourses in Rule of Law Cooperation**](#), stating that it provides an informed critique on the field of Rule of Law, and provides some steps for charting the path forward from this critique and analysis of the main assumptions that are prevalent in the field. He added that the default approaches have been top-

down, externally driven, legalistic and focused on strengthening institutions, given the Western mindset of many development actors.

> *"In donor circles I have to admit I have seen the default to the familiar models and the approaches like these really despite trying to be despite being well-intentioned, I think many are not all that effective in understanding the local system, defining the problems and empowering and partnering with the local stakeholders in designing and delivering the solutions together."*

He stressed that it is important to recognize that rule of law deficits have been treated as technical issues that can be solved through technical interventions and solutions. Many of these interventions that treat rule of law deficits as technical problems have fallen short due to lack of political will, or because the costs and benefits for all the stakeholders were not adequately weighed. He added that although there have been improvements, this is not consistent across the project cycle, which the Report points out. He endorsed adopting a more adaptive and flexible approach in designing projects and policies, encouraging actors to experiment and innovate in finding solutions to justice problems in a people-centered manner. Community justice needs, for example, can drive the design and implementation of projects, and strengthening the capacity of state institutions to meet the justice needs and priorities of communities, rather than building this capacity as an end goal itself.

On how to navigate the current uncertainty in the sector, Mr. Solomon encouraged development stakeholders to 'stay the course', and continue mainstreaming people-centered justice, including data-driven approaches. It is also necessary to continue learning and sharing knowledge and empowering local actors. He also emphasized the importance of partnerships and working in coalitions to continue advancing justice reform and facilitating cross-sectoral partnerships to integrate and mainstream justice into other sectors.

He added that **new cost-effective activities** can be a strategy to adopt, along with **actions that emphasize partnerships to incubate and scale justice innovation**, more investments in **shared learning**, and **more innovative and inclusive funding models,** pooling resources from different donor streams. For example, **public sector financing** can be a path forward, in particular in terms of blended funding frameworks, which are being tested and adopted in other sectors. He closed his intervention by expressing that although we face challenging times ahead—especially in the immediate term—he remains optimistic in the long term.

The moderator asked Mr. Solomon if he could elaborate on how political interests can be balanced when it comes to localization, as the shift towards 'localization' can, for example, increase the burden on community-led organizations that are often in states of precarity. The moderator also asked if he thinks that, given some of the criticisms, localization is still relevant and valuable moving forward towards people-centered justice, or if there are other terms. Mr.

Solomon stated that he is concerned that **localization can become a way of not just shifting the power but of shifting the burden**, especially now that donors in the Global North are cutting international development funding. He cautioned that 'shifting the burden' increases the pressure on local actors including community-led organizations to secure other sources of funding while also continuing to implement their projects and carry out the work they do on justice without the necessary support.

 The moderator introduced the third speaker, Mr. Yasah Musa Kimei (Nubian Rights Forum)

Mr. Kimei began by setting the context of his work in Kenya with the Nubian community, which he is part of. He introduced the history of the Nubian people and also explained how in Kenya, people's ability to access important services like education and healthcare depends on being in possession of an identification document. His work focuses on access to citizenship and his advocacy focuses on stateless communities in Kenya. He explained how difficulties with documentation create problems for community-led and grassroots organizations, as they face difficulties in accessing funding due to registration requirements. He added that **community-led organizations often struggle to meet donors' requirements** like audit reports, demonstrating long-term impact, filling out log frames, among others. Mr. Kimei also spoke about the Nubian Right Forum's work on legal empowerment and their work with a team of paralegals who assist community members in obtaining their identification documents and other issues they face in terms of accessing their rights. However, they have faced financial difficulties in accessing funding to maintain the paralegal project.

These difficulties are faced by other stateless-led—and community-led organizations more broadly—and he explained that given these barriers, a group of stateless-led organizations created the Global Movement Against Statelessness. With the establishment of the global movement, the hope was to **strengthen and mainstream community-centered advocacy efforts and bringing affected persons into the discussions and mobilizing resources** to address the issue.

> *"Sometimes communities require donors to come on the ground for them to see the impact, for them to feel the challenges and for them to understand what some of the challenges are, that this community needs and what areas do we need to support them."*

The Global Stateless Fund was established to **provide unrestricted funding to community-led organizations** and initiatives and continue to build solidarity across geographies. He stressed that the funding many stateless-led organizations receive is restricted in terms of what kind of activities or projects the organizations have to implement and is often restricted in time. The funding many of these organizations received was given for a year and could not be extended.

Although the project would have needed to run for 5 years to have an impact, there was no follow-up funding available.

The Fund provides unrestricted funding to stateless-led organizations, and so far over 25 organizations have received grants; 5% of these organizations being 'unregistered' organizations. He added that since the funding is unrestricted, **the community-led organizations have the power to design the projects and implement them**, as they have better knowledge of the contexts where they work and the needs within their communities. Mr. Kimei emphasized that this approach has reduced pressure on these organizations, and their communities more broadly, as the **reporting requirements are flexible**, which allows the grantees to focus on their work and implementing the projects.

The moderator asked Mr. Kimei to elaborate further on what the wider development sector—in particular, actors working in justice matters—can do to genuinely support stateless-led organizations like the Nubian Rights Forum **to have a louder voice**. Mr. Kimei stated that prioritizing and working together with stateless communities would be the first steps. He added that support through capacity-building activities, inviting stateless persons to speak at international events, are some other concrete steps. He also introduced the notion of the 'ladder of engagement', which means that

> *"You do not necessarily have to wait for someone to take you on top, but the top person can also come to the ground and listen to what is happening. They can also give an opportunity to someone who is at the grassroots to come into the top side and explain the issues and how to work together."*

After Mr. Kimei's intervention, the moderator opened the floor for questions to the speakers, and invited participants to join in on the general discussion on the question 'how can localization of the Rule of Law and development cooperation continue to be funded and enacted meaningfully'?

One of the participants pointed out that the term 'localization' itself is contested in academia and in practice. They emphasized that it is a concept that is imposed in a 'top-down' manner by exporting ideas, views, and practices from the Global North—often from New York, Geneva, or The Hague—and transplanting them into Southern contexts. They added that attention needs to be paid to traditional ways of knowing and understanding justice, to people-centered conflict resolution, and to build relationships that have not been easy to build due to conflicts.

In terms of funding, in particular on community philanthropy and participatory grant-making and reflecting on the flow of funds from North to South, they felt that it is necessary to be more 'daring' and reframe this funding as 'reparations' for colonialism, for example. The next step would be to support initiatives through 'solidarity', rather than through 'aid'. They invited everyone to dig deeper.

A question was raised on where the funds for the Global Statelessness Fund came from, and how the organizations who were given a grant were selected. Mr. Kimei explained that they were funds from BlueSky, Ford Foundation, Porticus, and I think and Oak Foundation. The organizations were identified through the Global Movement Against Statelessness and through referrals. Grants started from $12,000 to $36,000 per year and were granted for a period of three years.

Mr. Solomon addressed the first participant's comment and pointed out that there are several gaps that need to be addressed: first it is essential to close the 'justice gap' followed by closing the 'trust gap', and now it is necessary to close the 'financing gap' which has been exacerbated by cuts to ODA. He stressed that new models and new frameworks for funding justice are needed, which have to be more cost-effective and lead to the desired results. On bilateral donors, he stressed that it will be important, moving forward, to look at emerging donors from the Global South, international financial institutions—including regional banks—and the private sector. He raised the point that it is important to develop strategies to engage the private sector, which is risk averse in terms of investing in any kind of initiative. A potential solution would be for multilateral or bilateral donors to help mitigate risks and dissipate concerns from potential private sector investors or donors. While there is a lot of private sector investment on health—by the Gates Foundation, for example—and on education, the private sector pays less attention to justice, and a stronger case needs to be made on that front.

Another participant raised several points on private sector financing for Rule of Law and development. They added that in other interventions—for example, on local health systems—actors do not always see that there is an important justice component in their ability to implement their projects. They stressed that is necessary to make a connection between other services and justice, and persuade private sector donors to invest in justice:

> *"if we can make that kind of connection and show them that long term, they are spending a lot of money here that while it is doing great things and they are showing great results, it is not going to hold up over time if there's no rule of law system."*

They added that is necessary to provide evidence to support this and make the connections between other development interventions and justice more evident to other potential donors, like private sector actors and philanthropic entities.

Ms. Grishmanovskaya encouraged the sector to think beyond the paradigm of Rule of Law equating the State, the government and its institutions. She pointed out that it is possible to look at the work of non-State actors like community initiatives and traditional justice systems that are not formally part of the State justice system but do essential work on meeting people's justice needs.

One of the participants spoke about the 'relational' versus the 'transactional' nature of partnerships, stating that things need to do fundamentally different, because at the moment partnerships are utopian. They include those who can be present, leaving out many relevant stakeholders who are unable to join a conference or roundtable because they are denied a visa. They encouraged actors working in the sector to fundamentally rethink the ideology and underlying principles that shape the sector. They were critical of adapting and re-adapting, without fundamentally rethinking the foundations of the sector.

Another participant stated that in their experience, for many of their local partners—besides the funding—being able to rely on their international partners was very important. They added that in their experience, for many of their partners being able to access to funding and meeting all the requirements laid out by international donors like USAID was very challenging, in particular for informal groups that are doing very important and impactful work. They see the system-wide changes as an opportunity to rethink how things are done and find better ways to support these groups.

The issue of risk aversion by donors was raised by another participant, who pointed out that many donors are funded by taxpayer money, and this means donors have to be very diligent and careful with how they spend the funds and who they fund. They emphasized that since moving forward, there will be less money available, it is an opportunity to take more risks and innovate in a way that can support local groups with the smaller pool of funding that will be available in the justice sector. Ms. Grishmanovskaya added that in the Shifting Discourses project, questions of risk came up repeatedly. She stressed that risk assessments often focus on how the funds are used, and scrutiny is directed towards how local organizations use funds and implement projects. What is left out is the fact that local groups also run risks by working with international partners. This is an opportunity to find new ways of working together. She pointed towards risk-sharing and risk distribution frameworks, moving away from risk management which is still predominant across donors and large organizations like the United Nations that often act as intermediaries between donors and local organizations. This would lessen the burden on local organizations, who not only face risks but also often struggle with reporting obligations and meeting the requirements laid out by donors.

Another participant echoed the earlier comments on improving how to communicate to the wider public and to private sector investors that justice is at the foundation for the success of interventions in, for example, the education or health sectors. They expressed optimism in the ability of the private sector to address the funding gaps, mentioning the work of the Gates Foundation and Open Society Foundations.

Mr. Kimei added that the power should shift the power to local decision-makers, and communities need to be heard in how they define what their justice needs are, and what justice looks like. He encouraged donors to not just provide support, but to actively **partner and co-**

design interventions with local and community-led organizations. He invited donors to go to the communities they are funding:

> *"Giving an example, in Kibera, you would find sometimes people coming and taking photos, since the donors rarely come to the ground."*

To close the event, the three speakers were asked to give a final reflection on the discussions on the future of development cooperation funding

Rimma Grishmanovskaya:

"I think the big takeaway for me is that we are at the crossroads. We are living the crisis and sometimes it's hard. When we're in it to see the way out and to understand there's as so many processes are taking place at the same time. So, I think overall we should keep all possibilities open and keep a very open mind [to] even more radical approaches and everything in between."

Andrew Solomon:

"Priorities change because people change within these institutions. And that change comes at a huge risk that the random ideas can replace the thought through strategies to some extent. So, we need continuity. Leadership matters. And who tends to remain? The local leaders."

Yasah Musa Kimei:

"I'll say justice for stateless minority communities begins with trusting local leadership and resourcing it through flexible grassroots funding, not just as charity but as resistance and dignity. This will go a long way."