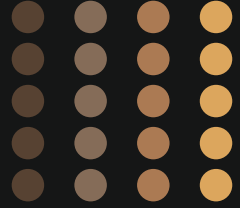


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Articles

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Understanding Constitutional Convergence in Comparative Constitutional Law

Nisha Bhaskar

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MAPPING KOEN DE FEYTER'S ACADEMIC LEGACY: GEOGRAPHIES OF SHARED RESPONSIBILITY FOR SUSTAINABLE DEVELOPMENT FOR SUBALTERN PEOPLE(S)

*Wouter Vandenhole**

Abstract

On 20 September 2024, Professor Koen De Feyter passed away. He was a brilliant scholar and a committed and talented teacher. He inspired many generations of students, also at the National Law University Delhi. He was driven by his quest for justice, in particular for indigenous peoples, local communities and the Palestinian people. Never as a matter of charity, always as an imperative of rights, justice and structural change.

This article is a modest attempt to document Koen De Feyter's academic legacy in the field of human rights and global development law. It identifies some of the core themes in his written work: a human rights approach to development, including the right to development; the rights of indigenous peoples; shared responsibilities of state and non-state actors for development; human rights and the market; the perspective on human rights by ordinary, subaltern people; and literature, music and film. It illustrates how Koen's teaching and research cross-pollinated each other: teaching was a source of research, but also research-driven. It maps Koen's research onto places where he had institutional affiliations. Those places, and the people there, have co-shaped Koen's thinking and writing: they represent geographies of his legacy.

Keywords: *Shared Responsibility, Right to Development, Localising Human Rights, Social Justice, Subaltern*

* Full Professor of Human and Children's Rights Law, Faculty of Law, University of Antwerp, Belgium. On 17 July 2025, the author held the first Koen De Feyter lecture, an initiative of the Law and Development Research Network (LDRn). The lecture drew in large part on this article. A recording of the lecture can be found on the websites of LDRn (<https://lawdev.org/>) and the Law and Development Research Group at University of Antwerp (<https://www.uantwerpen.be/en/research-groups/law-and-development/>).

I. INTRODUCTION

On 20 September 2024, Professor Koen De Feyter passed away. Unexpectedly. In his office, barely three weeks after he had assumed the office of the Dean of the Faculty of Law of the University of Antwerp. Koen joined the University of Antwerp in 1985. He completed his PhD on the human rights approach to development in 1992. He taught at the Institute of Development Policy, the Faculty of Social Sciences and the Faculty of Law at the University of Antwerp, but also at Maastricht University, Free University Brussels and the European Master's Programme in Human Rights and Democratisation (EMA). Koen was a professor of public international law. He taught a range of courses on public international law, sustainable development, global legal systems and inclusive and sustainable cities. Koen was a committed and talented teacher and inspired many generations of students. He brought issues to life through powerful storytelling and had the rare ability to distill complex questions to their essence.

Koen self-identified as a law and development scholar. He published widely on human rights and development cooperation, the rights of indigenous peoples, human rights and business, and the right to development. Or as he put it himself succinctly on ORCID: 'His main research areas are international law and sustainable development, and human rights in non-Western contexts.'¹ Each of his publications is a masterpiece: beautifully written, original, and compelling.

Koen's driving force was his quest for human dignity, in particular for indigenous peoples, local communities and the Palestinian people. Never as a matter of charity, always as an imperative of rights, justice and structural change.

He was a change-maker and an institution-builder. Under his leadership, the Antwerp Faculty of Law became an internationally renowned centre of excellence on law and development. Koen was instrumental in setting up the innovative Master of Laws program in English, and an unrelenting proponent of diversity and inclusion in the Faculty and beyond. He is the intellectual father and co-founder of the global Law and Development Research Network (LDRn) and has initiated many long-term collaborations with academic partners across the Global South, including Bolivia, the DRC, India, Lesotho, Peru, the Palestinian Territories and South Africa.

1 Koen De Feyter, 'Biography' (ORCID) <<https://orcid.org/0000-0001-5885-3469>> accessed 1 July 2025.

Koen was an exceptional human being and a mentor for so many of us. His legacy will endure in the generations of students and colleagues he inspired, the institutions and communities he spearheaded and his important contributions to scholarship.²

It is those contributions to scholarship that this paper will focus on. I am not sure whether Koen himself would have seen it that way, but I have identified seven clusters of themes, each spearheaded by one or more publications. The choice for seven is symbolic: it refers to the seven steps (*zevensprong*) in Maastricht University's problem-based learning,³ which Koen very much embraced.⁴ Of course, in practice, some of those clusters overlap to some extent. The seven clusters are presented in a more or less chronological order, although they should not be seen as merely successive. They often ran in parallel. Most are clearly located in human rights law, but some go beyond and speak to the topic of international development law. And each of them are linked (primarily) to a place that was dear to Koen: Antwerp (Belgium), where he grew up, studied and was professionally active for most of his career; Maastricht (the Netherlands), where he built his initial academic career post PhD; Venice (Italy), where he taught, spent research retreats and directed EMA. I therefore present them not only as themes, but also as geographies, places where and in between which Koen's iterative (also intellectual) journeys took place.⁵

II. ANTWERP: THE HUMAN RIGHTS APPROACH TO DEVELOPMENT

In 1992, Koen De Feyter completed his PhD on the human rights approach to development.⁶ It is a voluminous work of 557 pages and was never published commercially. In my own PhD, I engaged with Koen's PhD to discuss the right to

2 The preceding paragraphs are based on the In Memoriam I wrote for Koen De Feyter. 'In Memoriam: Koen De Feyter' (*University of Antwerp*, 20 September 2024) <<https://www.uantwerpen.be/en/about-uantwerp/faculties/faculty-of-law/about-us/in-memoriam-de-feyter-koen/>> accessed 1 July 2025.

3 'Problem-Based Learning' (*Maastricht University*) <<https://www.maastrichtuniversity.nl/over-de-um/onderwijs-aan-de-um/problem-based-learning>> accessed 1 July 2025.

4 He structured his inaugural lecture in Antwerp in 2005 in seven steps as well, as I recall further in the text. For sure, Koen was very methodological in his teaching, and also felt indebted to Maastricht University. But he may also have liked the '*zevensprong*' because there is a novel and a TV series with that name.

5 This is not to suggest that only those places were dear to Koen, or impacted his work. Each place Koen visited or spent some time left its mark, often and most prominently because of the people he met there.

6 Koen De Feyter, *The Human Rights Approach to Development* (Universitaire Instelling Antwerpen 1992).

development as a human right. In many ways, his PhD set already his later research agenda (or perhaps his PhD reflected his research interests and agenda), in particular on the right to development and the rights of indigenous peoples. Koen defined the individual human right to development in its internal dimension as the right to participate in determining development policy as well as in the distribution of the benefits resulting from development efforts.⁷ He attributed the collective dimension of human rights to development to ‘peoples in the autonomous sense’ (elsewhere, he writes ‘in the anthropological sense’), that is, minorities and indigenous peoples. In its external dimension, the right to development established positive obligations for the domestic state, other states and the international community. In his view, obligations incumbent on other states than the domestic state were secondary, and perhaps limited to individual rights, although his PhD thesis and a later publication are not fully consistent on this point.⁸

As a precursor, Koen had published a piece in 1986 under the title: *The Right to Development and the Development of Human Rights*.⁹ His PhD was followed by a research report in 1995 for the Belgian administration for development cooperation, *Development co-operation: a tool for the promotion of human rights and democratization*.¹⁰ Some years later, he zoomed in on economic, social and cultural rights (ESC rights) and their leverage for development.¹¹ The research had been commissioned by the platform of development cooperation non-governmental organisations in Flanders (NCOS) to explore how ESC rights could be leveraged for development in Africa, Asia and Latin America. The link between the right to development and ESC rights was clear-cut for Koen: ‘The requirements set by economic, social and cultural rights may function as a minimum threshold [...]: they determine the minimal benefits to which each is entitled under the right to participate in the distribution of the benefits resulting from development efforts.’¹²

7 *ibid* 555.

8 *ibid* 555–56; Koen De Feyter, ‘Het Recht Op Ontwikkeling’ in Ministerie Buitenlandse Zaken (ed), *Belgen over mensenrechten: Een bijdrage tot de Wereldconferentie Mensenrechten, Wenen*, 14–25 juni 1993 (1992) 11.

9 Koen De Feyter, ‘The Right to Development and the Development of Human Rights’ (1986) 39 *Studia Diplomatica* 269.

10 Koen De Feyter and others, *Development Co-Operation: A Tool for the Promotion of Human Rights and Democratization* (VLIR-ABOS 1995) <<https://hdl.handle.net/10067/131290151162165141>> accessed 7 August 2025.

11 Koen De Feyter, *Bridging Gaps: Development and Economic, Social and Cultural Rights* (NCOS 2000) <<https://hdl.handle.net/10067/269300151162165141>> accessed 7 August 2025.

12 De Feyter, ‘Het Recht Op Ontwikkeling’ (n 8) 555.

In 2008, Koen wrote a review essay on three edited volumes on human rights and development. He ended his review with ‘an afterthought’, which contains in fact some key points of his legacy: that human rights lawyers need to engage with development actors from different disciplinary backgrounds; that ‘law does not dominate the development discourse in the way that it has traditionally dominated human rights’; and that there is a need ‘for linking to and learning about development within the legal discipline’, and in particular within human rights law.¹³ Those points very much speak to Koen's strong views on the sometimes myopic views of (human rights) lawyers, and on the need to learn from rather than to preach to development scholarship and actors.

III. ANTWERP & MAASTRICHT: DEVELOPMENT LAW

In 2001, Koen published a monograph on *World Development Law: Sharing Responsibility for Development*.¹⁴ The book was written as a textbook for the many courses on development that Koen taught in Antwerp and Maastricht. The book is about a development approach to international law, and discusses to what extent international law contributes to the realisation of development. It brings in multiple actors and their respective responsibilities for development: the developing state, universal organisations, the European Union, but also indigenous peoples, transnational corporations, non-governmental organisations and the individual. The book very much captures Koen's reading of the world and international law at the time. On a more personal note, I would like to foreground two elements from the introduction. First, it is one of the very rare occasions on which Koen tells something about his formative experience as a member of the independent commission of inquiry into the Kibeho massacre by the Rwandan army, which took place in the aftermath of the Rwandan genocide. I recall only one other occasion on which he talked about it: in 2015 in New York, over a dinner we had in the aftermath of an expert seminar on the contextualisation of human rights and legalism from below. He confided that it had been a traumatic experience, with nightmares haunting him many years after that mission. In the book, Koen is also soberingly honest about his own role: ‘I was an obscure academic, and definitely a low profile choice.’¹⁵ The other point that he makes in his introduction to the *World*

13 Koen De Feyter, ‘Human Rights and Development Revisited’ (2008) Human Rights & International Legal Discourse 117, 122–23.

14 Koen De Feyter, *World Development Law. Sharing Responsibility for Development* (Intersentia 2001).

15 *ibid* xvi.

Development Law book, and that has always stayed with me, is his high level of self-reflexivity. In the introduction, he mentions how he has experimented with teaching some of the book's draft chapters. And he admits candidly: 'Perhaps students suffered', but apologetically explains: 'I definitely learned.'¹⁶ He also recalls that an African student asked him, 'whether the denial of the right to development at home would constitute a ground for asylum in Europe. "Of course not", I smiled, but I have not stopped wondering since why the answer should be so obviously negative.'¹⁷

Koen's teaching was research-driven, but his research was also very much teaching-driven. Conversations with students in the classroom and elsewhere inspired him, made him revisit topics and views, and drove his curiosity. One of the clearest examples of this is his book chapter, *Moya and the Sunflower School*.¹⁸ The chapter tells the fictitious story of Moya and the Sunflower School to illustrate the difficulties of implementing the right to primary education in a least developed country, in particular, also because of the policies of international institutions. The story is written for human rights education purposes. Koen therefore suggests that 'one option is to use the story as a starting point for a discussion, while the background notes could be provided afterwards.'¹⁹ His teaching was often also inspired by real life: the Kibeho massacre, the Rhana Plaza disaster, mine pollution in Bolivia, lack of access to water and sanitation in the DRC and India, ... All of those real life experiences featured prominently in his teaching. *Pour la petite histoire*: It was only after Koen's passing that his daughter, Moya, discovered that he had used her name in one of his academic writings. It illustrates how his teaching, writing and personal life in fact intersected, although he usually kept his family life fenced off from the university.

The idea that development co-operation should be redirected to the creation of partnerships between state and non-state actors and that all development actors 'should respect core development obligations' was deepened in *Contracting for human development: international law and development revisited*.²⁰

16 *ibid* xvii.

17 *ibid*.

18 Koen De Feyter, 'Moya and the Sunflower School: The Right to Primary Education in Least Developed Countries' in JCM Willems (ed), *Developmental and Autonomy Rights of Children* (Intersentia 2002) 317 <<https://hdl.handle.net/10067/429970151162165141>> accessed 8 August 2025.

19 *ibid* 332.

20 Koen De Feyter, 'Contracting for Human Development: International Law and Development Revisited' (2002) 10 *Asia Pacific Law Review* 49.

In development today, no single actor is the master of the field. The boundaries between the domestic and the international are dissolving. Results depend on constructive interaction between the various actors. Development law can assist by identifying, creating and promoting the mechanisms and tools that facilitate such interaction, including mechanisms for resolving differences.²¹

A direct spin-off of Koen's work on development law was an exercise in institution-building around the theme of law and development, which started in 2005 with the idea of the establishment of a Law and Development Research Group in the University of Antwerp's Law Faculty. The institution-building enfolded into a Flemish Law and Development Interuniversity Research Network (LAW&DEV)²² and eventually into the Law and Development Research Network (LDRn).²³ The latter had been prepared in the course of two conferences in Belgium, one at Ostend in 2016, and one at Antwerp in 2017. Ostend, a city on the Belgian coast, was another place that Koen loved to go to, initially for leisure or as a writing retreat, but gradually also for scholarly gatherings outside university premises.

The establishment of LDRn resulted in the *Encyclopedia of Law and Development*, a collaborative flagship publication of the network.²⁴ In the introduction, Koen, together with the co-editors Erdem Türkelli and De Moerloose, reflected on the future of Law and Development research. For Koen, one of the views he was uncompromising about was the distinct European histories of law and development, particularly in relation to the North-American history.²⁵ This acknowledgement of diversity also extended to the future. In other words, they should also remain distinct.²⁶ Like in Koen's other publications on law and development, here too, the need for dialogue between law and other disciplines was

21 *ibid* 74.

22 'The Flemish Interuniversity Research Network on Law and Development' (Law&Dev) <<https://www.lawanddev.ugent.be/>> accessed 7 August 2025.

23 'Law and Development Research Network' (LDRn) <<https://lawdev.org/>> accessed 7 August 2025.

24 Koen De Feyter, Gamze Erdem Türkelli and Stéphanie De Moerloose (eds), *Encyclopedia of Law and Development* (Edward Elgar 2021) <<https://hdl.handle.net/10067/1748000151162165141>> accessed 7 August 2025.

25 Koen De Feyter, Gamze Erdem Türkelli and Stéphanie De Moerloose, 'Future of Law and Development Research: An Introduction to the Encyclopedia of Law and Development' in Koen De Feyter, Gamze Erdem Türkelli and Stéphanie De Moerloose (eds), *Encyclopedia of Law and Development* (Edward Elgar 2021) 1 <<https://hdl.handle.net/10067/1748360151162165141>> accessed 7 August 2025.

26 *ibid* 3.

highlighted, resulting in a plea for interdisciplinarity. And in light of the *Encyclopedia's* justice-driven perspective, support for transdisciplinarity and epistemic justice was expressed: 'Transdisciplinarity requires researchers to take responsibility for ensuring that the products of their research benefit those who have contributed to it.'²⁷ And also, 'a truly equal bi-directional flow of knowledge between scholars located in the Global South and the Global North' is advocated for.²⁸ Beyond interdisciplinarity and epistemic justice, Koen and his colleagues located the future of law and development scholarship in being 'critical of the law, i.e., reflect on to what extent the law under review supports power dynamics that maintain established privileges, and is able to achieve its stated objectives'²⁹ as well as being self-critical.³⁰ Koen's meticulous doctrinal work always served a higher purpose of justice for the most vulnerable or marginalised by economic globalisation, the subaltern.

IV. ANTWERP, MAASTRICHT & VENICE: HUMAN RIGHTS AND THE MARKET

Koen's dual interest in human rights and global development triggered research on business and human rights,³¹ International Financial Institutions (IFIs) and human rights³² and trade and investment and human rights.³³ In his initial

²⁷ *ibid* 2.

²⁸ *ibid*.

²⁹ *ibid*.

³⁰ *ibid* 3.

³¹ Koen De Feyter, 'Corporate Governance and Human Rights' in *Commerce mondial et protection des droits de l' homme* (Institut international des droits de l' homme, Bruylant 2001) <<https://hdl.handle.net/10067/42990151162165141>> accessed 7 August 2025; Koen De Feyter, 'Privatisation and Human Rights: An Overview' in Koen De Feyter and Felipe Gomez Isa (eds), *Privatization and Human Rights* (Intersentia 2005) <<https://hdl.handle.net/10067/681550151162165141>> accessed 7 August 2025.

³² Koen De Feyter, 'The International Financial Institutions and Human Rights: Law and Practices' (IOB 2002) <<https://hdl.handle.net/10067/429950151162165141>> accessed 7 August 2025; Koen De Feyter, 'Zacht recht en zelf regel geven' in Eva Brems (ed), *Bedrijven en mensenrechten: verantwoordelijkheid en aansprakelijkheid* (Maklu 2003) <<https://hdl.handle.net/10067/429940151162165141>> accessed 7 August 2025; Karen van Laethem and Koen De Feyter, *Maatschappelijk verantwoord ondernemen als hefboom voor Vlaamse ontwikkelingssamenwerking* (Vlaams Steunpunt Buitenlands Beleid 2008) <<https://hdl.handle.net/10067/714490151162165141>> accessed 7 August 2025.

³³ Koen De Feyter and et al, *Economic Development or Human Rights? Assessing the Impact of Kenya's Trade and Investment Policies and Agreements on Human Rights: International Fact-Finding Mission* (International Federation of Human Rights 2008) <<https://hdl.handle.net/10067/714480151162165141>> accessed 7 August 2025.

research paper on IFIs and human rights, Koen looked into their human rights accountability. His conclusions were clear: they are bound by human rights law, but a human rights accountability gap is likely to exist, since they are only bound by human rights law through international custom and general principles, not through treaty law. He therefore pleaded for detailed agreements on how accountability is distributed among the project facilitators of World Bank funded projects.³⁴ This theme of agreements or partnerships has taken on a more prominent role in his later work on the right to development too.

These themes of international financial and economic actors and development were teaching-driven too, and the teaching was vice versa, also led by Koen's research on those topics. Those themes also brought coherence to Koen's teaching in Antwerp, Maastricht and Venice:

Koen was a regular teacher in the EMA programme from the very beginning. Representing the Maastricht University Faculty of Law, he was in the late 1990s responsible for organising an EMA teaching week on human rights and development titled 'globalisation and inequality'. ... In the academic year 2004-2005, Koen stepped up his involvement and assumed the role of resident EMA Academic Coordinator / Programme Director. [...] Koen nevertheless remained a regular teacher in the master's programme, almost always on topics related to human rights and development and in many instances also on human rights and economic globalisation, intersections between business and human rights, and responsibilities under international law of transnational corporations and international financial institutions.³⁵

The work on globalisation, business and human rights culminated in a monograph, *Human Rights: Social Justice in the Age of the Market*. Koen is crystal clear from page one of the book about whose interests he seeks to serve: 'This book is not about how human rights can serve the interests of a company or of a racist

34 De Feyter, 'The International Financial Institutions and Human Rights : Law and Practices' (n 32); Koen De Feyter, 'Self-Regulation' in Willem Van Genugten, Paul Hunt and Susan Mathews (eds), *World Bank, IMF and Human Rights* (Wolf 2003) <<https://hdl.handle.net/10067/740890151162165141>> accessed 7 August 2025.

35 George Ulrich, 'Koen De Feyter In Memoriam' (*Global Campus of Human Rights*, 23 September 2024) <<https://www.gchumanrights.org/gc-news/koen-de-feyter-in-memoriam>> accessed 1 July 2025.

party. It investigates whether human rights can assist people abandoned by globalisation in achieving human dignity.³⁶ Once again, a central theme is the variety of actors who make or break human rights protection, this time in the context of globalisation. Another theme is the need for rethinking human rights law: both in terms of existing state obligations and of human rights obligations for other actors, in particular ‘influential economic powers.’³⁷ A third theme, as a precursor to the Localising Human Rights research agenda (see next section), is Koen’s argument that the ‘experience of people alienated by the globalisation process should inform the direction of the human rights project, rather than the extent to which dominant actors are willing to accommodate aspects of human rights that serve their interests.’³⁸ Equally related to Localising Human Rights is the emphasis on the need for ‘plurality in the human rights discourse’.³⁹ Once more, there is a passionate call for interdisciplinarity as well as for pooling resources and cross-fertilisation between the human rights movement and the alternative globalisation movement.⁴⁰

As important as the substance is the series and format in which this book was published. *Human Rights: Social Justice in the Age of the Market* was published in the *Global Issues in a Changing World* series. The series wants to offer accessible think pieces on leading global issues, paying particular attention to the needs and interests of ordinary people.⁴¹ Clearly, accessibility and attention for the needs of ordinary people are two common threads throughout Koen’s academic work. The book series is a joint initiative by Zed Books in collaboration with partner publishers (primarily in the Global South) and non-governmental organisations around the world, including, e.g., Development Gap, Public Interest Research Centre, Third World Network and World Development Movement.

The book had further spill-over effects in an edited volume, co-edited with two longstanding EMA colleagues, on economic globalisation and human rights.⁴²

36 Koen De Feyter, *Human Rights: Social Justice in the Age of the Market* (Zed Books 2005) 1 <<https://hdl.handle.net/10067/681530151162165141>> accessed 7 August 2025.

37 *ibid* 2.

38 *ibid* 3.

39 *ibid* 5.

40 *ibid* 6.

41 Fernwood Publishing, ‘Global Issues Series’ <<https://fernwoodpublishing.ca/books/series/global-issues-series>> accessed 1 July 2025.

42 Wolfgang Benedek, Koen De Feyter and Fabrizio Marrella, *Economic Globalisation and Human Rights* (Cambridge University Press 2007).

V. ANTWERP & VENICE: FROM LOCALISING HUMAN RIGHTS TO LIVING RIGHTS

In 2005, Koen was hired by the University of Antwerp's Faculty of Law as the chair of public international law. The affiliation with the Faculty of Law, after having taught for more than a decade at the University's Institute of Development Policy and Faculty of Social Sciences, was important for Koen. It suggested that there is a place for law-and-development scholarship *within* the law. In subsequent years, Koen has fought passionately for recognition of law and development within the Antwerp Faculty of Law.

At his inaugural lecture at the Antwerp Faculty of Law, Koen launched the idea of localising human rights, using Maastricht University's seven steps (*zevensprong*).⁴³ Localising human rights became Koen's primary research agenda throughout the two decades he held the chair in public international law at the Antwerp Faculty of Law. His initial paper on the topic of localising human rights⁴⁴ was complemented with a methodological approach⁴⁵ and evolved also conceptually, to sites of rights resistance.⁴⁶ The idea was a *reverse* standard-setting process for human rights, so that human rights would be grounded more in realities on the ground. In Koen's own words, localising human rights is about 'taking the human rights needs as formulated by local people (in response to the impact of economic globalisation on their lives) as the starting point both for the further interpretation and elaboration of human rights norms, and for the development of human rights action, at all levels ranging from the domestic to the global.'⁴⁷ A chain of actors needs to be in place. A key role is assigned to the community-based organisations as the first link in the chain: 'If the experience of local communities is to inspire the further development of human rights, community-based organisations will have to be the starting point'.⁴⁸ The second link is local (in the sense of domestic)

43 Maastricht University, 'Problem-Based Learning' <<https://www.maastrichtuniversity.nl/over-de-um/onderwijs-aan-de-um/problem-based-learning>> accessed 1 July 2025.

44 Koen De Feyter, 'Localizing Human Rights' (Discussion Paper/ 2006.02, University of Antwerp 2006) <<https://repository.uantwerpen.be/docman/irua/ab5f01/a7de0e20.pdf>> accessed 1 July 2025. See also Koen De Feyter, 'Localising Human Rights' in Wolfgang Benedek, Koen De Feyter and Fabrizio Marrella (eds), *Economic Globalisation and Human Rights* (Cambridge University Press 2007).

45 Gaby Oré Aguilar, 'The Local Relevance of Human Rights: A Methodological Approach' in Koen De Feyter and others (eds), *The Local Relevance of Human Rights* (Cambridge University Press 2011).

46 Koen De Feyter, 'Sites of Rights Resistance' in Koen De Feyter and others (eds), *The Local Relevance of Human Rights* (Cambridge University Press 2011).

47 De Feyter, 'Localising Human Rights' (n 44) 68.

48 *ibid* 77.

human rights NGOs. Their role is very much one of transmission: transmission of specific human rights expertise and knowledge to the community-based organisations; and transmission of lessons learnt at the grassroots to the third link in the chain, i.e., international nongovernmental human rights organisations. The fourth link is allies in governmental and intergovernmental institutions. Whether human rights experiences at the grassroots inspire and guide the whole chain depends on the relationships between the links of the chain: do they reach a common understanding as really equal partners, or do differences in resources and other power imbalances prevail?⁴⁹

In a subsequent piece on sites of rights resistance, the emphasis on local practice was maintained, but the grassroots actor is much more circumscribed than in the 2007 chapter: reference is made to the affected group, which can be ‘any form of open organisation based on the identification of a common need or interest. They may, and often will be geographically located [footnote omitted], but could also be rooted in a common experience [footnote omitted], such as the sharing of a similar status within society (e.g., the exercise of an occupation that is culturally considered as impure).’⁵⁰ The approach is less prescriptive (the four links of the chain have disappeared), and there is more emphasis on local accommodation of human rights claims, while the added value of framing claims in human rights language is also treated more explicitly.

The localising human rights agenda led to a series of events and partnerships. An inaugural expert seminar took place in April 2007, followed by an international conference on the local relevance of human rights some years later.⁵¹ The latter led to a similarly titled publication.⁵² In the introduction, Koen, together with Stephan Parmentier, contended that ‘it is [...] unclear whether the global regime that was so painstakingly developed over the last few decades is of much practical use at the local level to people confronted with the abuse of power and/or inhumane living conditions. [...] It is at the local level that abuses occur, and where a first line of defence needs to be developed, first and foremost by those who are under threat.’⁵³ The objective of the book was therefore to assess the local relevance of

49 *ibid* 83.

50 De Feyter, ‘Sites of Rights Resistance’ (n 46) 15.

51 Koen De Feyter and others, ‘Preface’ in Koen De Feyter and others (eds), *The Local Relevance of Human Rights* (Cambridge University Press 2011) xvii
<<https://hdl.handle.net/10067/1244130151162165141>> accessed 7 August 2025.

52 Koen De Feyter and others (eds), *The Local Relevance of Human Rights* (Cambridge University Press 2011) <<https://hdl.handle.net/10067/933330151162165141>> accessed 7 August 2025.

53 Koen De Feyter and Stephan Parmentier, ‘Introduction’ in Koen De Feyter and others (eds) *The Local Relevance of Human Rights* (Cambridge University Press 2011) 1
<<https://hdl.handle.net/10067/933310151162165141>> accessed 7 August 2025.

human rights, i.e., whether the global human rights regime managed to provide protection against abuse or inhumanity.⁵⁴ It offers exciting case studies of sites of human rights resistance, their failures and successes, as well as the degree of permeation into the global human rights framework.

As part of the localising human rights agenda, partnerships with institutions and scholars in the Global South (Bolivia, China, the DRC, India, Lesotho, Palestine) were established. The partnership with National Law University Delhi was among the first ones, and has proven particularly strong, including student and staff mobility, joint research and above all, lasting friendships. Reports on the case studies that were undertaken can be found in the *Localising Human Rights Paper Series*, that is also available online.⁵⁵ Case studies were undertaken about the Declaration on the Rights of Peasants; UNICEF's role in the Villages Assainis Program in the Bas-Congo and the right to safe drinking water and sanitation in the rural Bas-Fleuve region of the DRC (in tandem with doctoral research);⁵⁶ the right to education of rural-urban migrant households in Chongqing; and the right to water and sanitation for the Urban Poor in Delhi. Research in Bolivia resulted in two doctoral theses.⁵⁷ They are all empirically informed and the result of 'slow science', as Koen used to put it. Science that takes time because of practical and conceptual challenges, but also science that is not rushed and has the time to mature.

The localising human rights agenda informed some pieces on multidisciplinary research (2008)⁵⁸ and the interaction between law and sociology

⁵⁴ *ibid* 2.

⁵⁵ 'Localising Human Rights Working Paper Series' (University of Antwerp) <<https://www.uantwerpen.be/en/research-groups/law-and-development/publications/localising-human-rights/>> accessed 1 July 2025.

⁵⁶ Sundi Mbambi Pascal, 'Conceptualising "Capacity Development" in Development Policy: A Case Study of the DRC-UNICEF "Village Assaini" Programme in Kongo Central, DRC' (PhD thesis, University of Antwerp 2020) <<https://repository.uantwerpen.be/docstore/d:irua:1789>> accessed 1 July 2025. For a related piece, See Koen De Feyter, 'Donor Human Rights Interventions in the Bas-Congo (DRC)' in Paul Gready and Wouter Vandenhole (eds), *Human Rights and Development in the new Millennium : Towards a Theory of Change* (Routledge 2013) <<https://hdl.handle.net/10067/1100300151162165141>>.

⁵⁷ María Celeste Quiroga Eróstegui, 'Use of and Access to Land for Peaceful Transformation: A Socio-Legal Perspective on Human Rights of Indigenous Women of the Cochabamba Upper Valley' (PhD Thesis, University of Antwerp 2022) <<https://repository.uantwerpen.be/docstore/d:irua:17876>> accessed 1 July 2025; Leonardo Villafuerte Philippsbron, 'Effectiveness of the Indigenous Justice of Jach'a Karangas in the Framework of the Egalitarian and Plural Justice of Bolivia' (PhD Thesis, University of Antwerp 2023) <<https://repository.uantwerpen.be/docstore/d:irua:15738>> accessed 1 July 2025.

⁵⁸ Koen De Feyter, 'In Defence of a Multidisciplinary Approach to Human Rights' in Koen De Feyter and Georgios Pavlakos (eds), *The Tension Between Group Rights and Human Rights: A Multidisciplinary Approach* (Hart 2008) <<https://hdl.handle.net/10067/714440151162165141>> accessed 7 August 2025.

(2011).⁵⁹ Although the added value of multidisciplinary research collaboration has been running through Koen's academic work as a golden thread, it was his work on localising human rights that made him argue quite adamantly that multidisciplinary research was not only nice to have, but *need* to have in law and development research.

Koen wanted to wrap up his two decades of scholarly work on localising human rights in a monograph – most likely his last one, he confided to one of his PhD students just days before he passed away. He embarked on this final monograph journey in early 2023, but the thinking process began in 2021, if not earlier. The title and stated objective evolved and shifted. Initially, Koen used the title *Universal Human Rights in Law and Development* and sought to elaborate a law and development approach to human rights. Later on, the working title read: *Developing Human Rights. A Law & Development Approach to International Human Rights*.⁶⁰ In late 2022, he defined the objective rather in terms of 'offering a reality check on the success and failure of the use of human rights by social groups that are not accommodated by dominant development paradigms, building on the [those] groups' own stories'.⁶¹ By then, the title read: *Lived Human Rights. An International Law and Development Narrative*.

Clearly, this book was meant to capture his intellectual legacy:

This book is an attempt to take a step back; to connect the dots between work done in a human rights and development context over the last four decades; and to make sense of that work from a firmly contemporary perspective, reflecting on what the past could mean for current debates and future normative and policy development.

It is thus a personal book, based on a variety of encounters and exchanges across the globe. But arguably my own experience has not at all been unique but was rather typical of what a development and human rights scholar experiences. Such a scholar needs to engage with practice in order to learn, but seldom finds the time to systematize. And thus, systematization is precisely what the book seeks to achieve: using a practice scattered over time and place to revisit human rights and development more thoroughly.

59 Koen De Feyter, 'Law Meets Sociology in Human Rights' (2011) 40 *Development and Society* 45.

60 Koen De Feyter, *Developing Human Rights. A Law & Development Approach to International Human Rights* (Book proposal on file with author).

61 *ibid.*

My hope is thus that book will speak to colleagues who have tread a similar path, but also and more importantly to early career practitioners and academics setting out in this field.⁶²

A good part of the manuscript is completed, including the preface. Tellingly, that preface 'Beyond the Wall', brings the story of a real (or fictitious?) meeting between 'the other man' (Koen?) and Awad, a Bedouin Palestinian man stranded in the Jordan Valley on the West Bank. In recent years, Koen was the driving force behind a collaboration with the Muwatin Human Rights Centre at Birzeit University. Together with Gamze Erdem Türkelli and Thalia Kruger, two colleagues at the Law and Development Research Group, he was instrumental in suspending collaboration between the University of Antwerp's Law Faculty and Bar-Ilan University in Israel, because of the latter's complicity in the Gaza War. They also wrote a Policy Brief to inform the incoming Vice-Chancellor of the University of Antwerp of the impossibility of institutional cooperation with universities in Israel. The timing was well-chosen, just days before Koen assumed the Dean's office and would no longer be able to speak as freely as before.

The Policy Brief leaves no doubt about the role of Israeli universities in the occupation of Palestine and the implications for collaboration with those universities:

Israeli universities as institutions are embedded in the exclusivist nature of the Israeli political system and benefit from the occupation. They have put their expertise at the disposal of governmental measures aimed at maintaining and expanding the occupation. Institutional cooperation with these universities thus amounts *prima facie* to aid and assistance in maintaining a situation that breaches peremptory norms of international law.⁶³

For the University of Antwerp, as a public university, this meant that as an 'organ of society and an organ of the State', it was 'required not to render aid or assistance to maintain a situation that results in serious breaches of *jus cogens*

62 *ibid.*

63 Gamze Erdem Türkelli, Koen De Feyter and Thalia Kruger, 'Serious Breaches of Obligations Arising from Peremptory Norms of International Law: Consequences for Institutional Cooperation with Universities in Israel' (2024) 2
<<https://medialibrary.uantwerpen.be/files/7154/746c261e-9427-4832-b1d0-9a47f79bdee2.pdf>>
accessed 1 July 2025.

norms'.⁶⁴ The University of Antwerp is said to have a

duty to act within a strict due diligence framework, departing from a precautionary principle in assessing the risk of complicity in such grave violations of peremptory norms of international law as well as other breaches such as violations of international humanitarian law and international human rights law, including the ongoing illegal occupation of Palestinian territories, the credible evidence as outlined by the Office of the Prosecutor of the International Criminal Court in relation to the commission of war crimes and crimes against humanity as well as the plausible risk of a genocide as outlined in the three Provisional Measures orders of the International Court of Justice to date.⁶⁵

Therefore, 'institutional cooperation should be halted.'⁶⁶ Unfortunately, Koen's expert advice on this matter has not received the attention and action it deserves.

VI. ANTWERP & VENICE: THE RIGHT TO DEVELOPMENT – TOWARDS A BINDING INSTRUMENT

A fifth cluster of work revolves around the right to development. In 2008, Koen resumed his earlier PhD work on the right to development with a paper on a multistakeholder agreement, in order to discuss the potential added value and contents of a legally binding instrument.⁶⁷ In that paper, he argues that the added value of a legally binding instrument lies in its external dimension, i.e., 'the establishment of a common responsibility [footnote omitted] for the realisation of the right among a multiplicity of duty holders including non-duty holders including non-State actors [...].'⁶⁸ It is here that the idea of a multi-stakeholder agreement comes in, since in Koen's view, 'direct international obligations could not be imposed on international organisations and private actors without their consent.' The idea behind a multi-stakeholder agreement was to 'bring together a coalition of the willing' of state and non-state actors who were committed to the implementation

⁶⁴ *ibid* 15.

⁶⁵ *ibid* 22.

⁶⁶ *ibid* 15.

⁶⁷ Koen De Feyter, 'Towards a Multi-Stakeholder Agreement on the Right to Development' in Stephen P Marks (ed), *Implementing the Right to Development: The Role of International Law* (Friedrich Ebert Stiftung 2008) 97 <<https://hdl.handle.net/10067/714460151162165141>> accessed 7 August 2025.

⁶⁸ *ibid* 99.

of the right to development.⁶⁹ At the core of such an agreement would be the provision of support to communities whose rights have suffered from economic globalisation, either through a fund or through partnerships.⁷⁰

The 2008 paper was followed by a 2013 piece on a Framework Convention. Koen's concern was to allow for a phased approach to overcome political controversy and accommodate the concerns of the different geopolitical groups: whereas the Global South wanted a legally binding instrument on the right to development that would speak to inequalities in economic decision-making, finance and trade (the global dimension), the Global North was not keen on a binding instrument and emphasised the domestic environment in developing countries (the domestic dimension).⁷¹ A Framework Convention was to deliver on the potential added value of a right to development treaty on two counts: by going beyond individual State responsibility⁷² and by incorporating international developments, principles of mutual accountability, policy alignment and inclusive partnerships.⁷³ In the slipstream of his work on the Framework Convention, Koen developed an interest in the common interest and states acting as custodians thereof (building on Scholtz's notion of custodian sovereignty).⁷⁴

Back in 2013, Koen felt that his paper on a Framework Convention was the last meaningful contribution he could make to the debates on the right to development, in light of the politicised and protracted course of events over decades. He proved wrong. Once work on the draft international covenant on the Right to Development started in earnest, he became a key player in the process. He served as a member of the United Nations Expert Mechanism on the Right to Development (2021-2023) and of the Expert Drafting Group of the UN Intergovernmental Working Group on the Right to Development (2020-2023). For many years, Koen had deliberately stayed away from any position in the UN human

69 *ibid* 102.

70 *ibid* 103.

71 Koen De Feyter, 'Towards a Framework Convention on the Right to Development' (Friedrich Ebert Stiftung 2013) <<https://hdl.handle.net/10067/1100280151162165141>> accessed 7 August 2025.

72 See also Koen De Feyter (ed), *Globalization and Common Responsibilities of States* (Ashgate 2013) <<https://hdl.handle.net/10067/1067190151162165141>> accessed 7 August 2025.

73 De Feyter, 'Towards a Framework Convention on the Right to Development' (n 71) 4.

74 Wolfgang Benedek and others (eds), *The Common Interest in International Law* (Intersentia 2015) <<https://hdl.handle.net/10067/1269210151162165141>> accessed 7 August 2025; Koen De Feyter, 'The Commons in International Law' in Himadri Sinha (ed), *Governance of Commons and Livelihood Security* (Xavier Institute of Social Service 2013) <<https://hdl.handle.net/10067/1100290151162165141>> accessed 7 August 2025.

rights system. One reason was that he wanted to leave his mark on the Law Faculty of the University of Antwerp through institution-building (such as the establishment of the Law and Development Research Group and the elaboration of the English Master Programme) rather than to build an international career. Another reason was perhaps that he did not like the idea of states lobbying to have nationals appointed as a committee member or independent expert. It made him immensely proud that he had been elected as a member of the Expert Mechanism on the Right to Development on his own merit, without sponsorship by the Belgian state.

He was, therefore, not surprisingly, really disappointed when a former Belgian politician with no track record on the right to development was sponsored to become a member of the Expert Mechanism for the 2023-2026 term, although he would not necessarily have run for a new term for himself. He believed the expert work in Geneva was over and that political negotiations had to move on to the General Assembly in New York. I am not sure how he would assess himself the contribution of the expert bodies (and his own role therein) to the elaboration of a legally binding instrument on the right to development. The litmus test for success of the Geneva human rights system he proposed in *Human Rights: Social Justice in the Age of the Market* sets a high bar: 'whether the Geneva system fulfils the role of a global forum capable of translating the experience of those who suffer grave abuse at the local level into effective but sufficiently flexible global norms and action.'⁷⁵

Koen liked to talk about his experiences in the Expert Mechanism and the Expert Drafting Group with colleagues and students. Not surprisingly, he also did so at his second institutional home, the EMA program in Venice. As George Ulrich, Academic Director of the Global Campus of Human Rights, recalled in his *In Memoriam*: 'In his final teaching sessions in Venice, Koen shared his experience of this engagement with EMA students both in plenary sessions and in interactive 'second stream' master classes.'⁷⁶

VII. ANTWERP: INDIGENOUS PEOPLES' RIGHTS

The same year he earned his PhD, Koen wrote his first publication on self-determination for indigenous peoples.⁷⁷ In his subsequent right to development papers, he systematically emphasised the importance of collective rights or what he

⁷⁵ De Feyter, *Human Rights: Social Justice in the Age of the Market* (n 36) 5.

⁷⁶ Ulrich (n 35).

⁷⁷ Koen De Feyter, 'Zelfbestuur voor inheemse volkeren en internationaal recht' (1992) 4 MO: noordzuid cahier 35.

called the 'peoples' right dimension' of the right to development.⁷⁸ In particular, he argued that the notion of peoples should be interpreted as including indigenous peoples and local communities (with a prioritisation by vulnerability or marginalisation).⁷⁹ It was only in 2018 that he dedicated a co-edited volume in English to indigenous peoples' rights, *Critical Indigenous Rights Studies*.⁸⁰ As the editors explain, critical refers to questioning the law rather than simply pointing out implementation gaps, through interdisciplinary and realist engagement with indigenous peoples' rights.⁸¹ This approach was very much in line with what Koen had argued for in his work on development law.

VIII. ANTWERP, MAASTRICHT, VENICE & BEYOND: HUMAN RIGHTS, LITERATURE AND CINEMA

Koen has always had a keen interest in literature, music and film. He once confided to me that while working on his PhD, he spent many afternoons in the cinema. When he travelled, he would often go to a concert. Some telling evidence of this interest can also be found in his academic writings. A book chapter, *Back to Kisangani: about Heart of Darkness*,⁸² connects his interest in literature, law, the DRC and decolonisation with his personal life story, which in a way began in Kisangani.

Towards the end of his year as academic director in Venice, Koen established a Summer School on Cinema, Human Rights and Advocacy. Koen's own teaching in the Summer School focused on freedom of expression in the arts.⁸³ He contributed a chapter on this theme to the *Routledge Companion to Music and Human Rights*.⁸⁴

78 De Feyter, 'Towards a Multi-Stakeholder Agreement on the Right to Development' (n 67); De Feyter, *Towards a Framework Convention on the Right to Development* (n 71) 3.

79 De Feyter, *Towards a Framework Convention on the Right to Development* (n 71) 8–9.

80 Giselle Corradi and others (eds), *Critical Indigenous Rights Studies* (Routledge 2018) <<https://hdl.handle.net/10067/1583960151162165141>> accessed 7 August 2025.

81 Giselle Corradi and others, 'The Contours of a Field of Critical Indigenous Rights Studies' in Giselle Corradi and others (eds), *Critical Indigenous Rights Studies* (Routledge 2018) <<https://hdl.handle.net/10067/1583970151162165141>> accessed 7 August 2025.

82 Koen De Feyter, 'Terug naar Kisangani: omtrent Heart of darkness' in Koen Lemmens (ed), *Recht en literatuur* (Die keure 2007) <<https://hdl.handle.net/10067/681640151162165141>> accessed 7 August 2025.

83 Ulrich (n 35).

84 Koen De Feyter, 'Censorship of Music' in Julian Fifer and others (eds), *The Routledge Companion to Music and Human Rights* (Routledge 2022) <<https://hdl.handle.net/10067/1885100151162165141>> accessed 7 August 2025.

IX. CONCLUSION

This article is a modest attempt to document some of Koen De Feyter's academic legacy in the field of human rights and global development law. It is by no means comprehensive or conclusive. It has identified some of the themes that were central to much of Koen's written output: a human rights approach to development, including the right to development; the rights of indigenous peoples; shared responsibilities of state and non-state actors for development; human rights and the market; the perspective on human rights by ordinary, subaltern people; and literature, music and film. It has illustrated how Koen's teaching was a source of research interests, but also research-driven. And it has sought to map Koen's research onto places: universities which employed Koen, such as the University of Antwerp, Maastricht University and the Global Campus of Human Rights in Venice, but also the numerous places where Koen taught or spent research stays. Those places have co-shaped Koen's thinking and writing: they represent the geographies of his legacy.

॥ न्यायस्तत्र प्रगर्भं स्यात् ॥



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