

# SDG 16: PEACE, JUSTICE AND STRONG INSTITUTIONS



# A LEGAL GUIDE

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This Legal Guide to the Sustainable Development Goals (SDGs) was first published by Advocates for International Development (A4ID).

## **Disclaimer**

The information contained within this Guide is correct as at the date of publication.

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## **About A4ID**

Advocates for International Development (A4ID) was founded in 2006 to see the law and lawyers play their full part in the global eradication of poverty. Today, A4ID is the leading international charity that channels legal expertise globally toward the achievement of the UN Sustainable Development Goals. Through A4ID, the world's top lawyers are able to offer high-quality, free legal support to NGOs, social enterprises, community-based organisations, and developing country governments that are working to advance human dignity, equality, and justice. A4ID also operates as a knowledge and resource hub, exploring how the law can be better used to help achieve the SDGs through a range of courses, publications, and events.



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## Foreword

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### The SDG Legal Initiative

There are now fewer than ten years left to meet the lofty ambitions of the UN Sustainable Development Goals (SDGs), with their target date of 2030. Aware of the challenge, Advocates for International Development (A4ID) has been continuing its innovative work towards meeting these targets, by harnessing the power of the law and the work of lawyers. A4ID's SDG Legal Initiative has been developed because it is now more important than ever that lawyers worldwide come together to use their skills to advance positive global change.

For this reason, A4ID's SDG Legal Initiative aims to reach every lawyer in the world and provide them with the knowledge and opportunities to take practical action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity. The SDG Legal Initiative also aims to build thought leadership, to create communities of practice, and to amplify the role of the legal sector in achieving the SDGs.

### Legal Guide to the SDGs

As part of its SDG Legal Initiative, A4ID has developed the world's first Legal Guide to the SDGs. The Legal Guide has been developed as a unique resource, providing a foundational analysis of the role that law can and should play in the achievement of the SDGs. Developed in collaboration with lawyers, academics, and development practitioners, the Guide is made up of 17 distinct chapters, each focussed on one of the 17 goals. Each chapter provides an overview of the relevant regional, national, and international legal frameworks, highlighting how the law can be applied to promote the implementation of the SDGs. The Guide also offers key insights into the legal challenges and opportunities that lawyers may encounter, presenting clear examples of the actions that lawyers can take to help achieve each goal.

### Role of law in maintaining peace, upholding justice, and building strong institutions

SDG 16 is both a goal in itself and a necessary enabler for all other goals. Without peace, justice, and strong institutions, achieving objectives such as ending poverty, ensuring education, or promoting economic growth will remain difficult, if not impossible. On the other hand, truly peaceful and just societies, based on the rule of law, with effective, accountable, and inclusive institutions, can protect human rights and drive forward development that is truly sustainable.

Today, however, progress towards SDG 16 is lagging behind. Conflicts, insecurity, weak institutions, corruption, and limited

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access to justice remain a major threat to development. Too many people are excluded from the protections and opportunities that the law ought to provide for them. Whether lacking legal identity, land tenure, residency papers, or because they are employed in the informal sector, many do not have access to proper healthcare, education, financial services or decent work opportunities. In countless countries, the COVID-19 pandemic has also undermined the rule of law, despite the resilience shown by the legal and judicial professions, further limiting access to justice. This is discussed in more detail in the chapter.

The key to accelerating progress towards the achievement of SDG 16 by 2030 is the concept of partnership. Multi-

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**Chief Executive**

stakeholder networks tackling SDG 16 targets bring together States, international organisations, academia, and civil societies.

It is now time for the legal profession to take up arms and focus their minds and hearts to contribute to the achievement of these Goals. This applies to the entire SDG Agenda, and it is of paramount importance for SDG 16.

This is a call for the global legal community to show how the law can achieve this imperative change for the greater good by 2030.



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## The Sustainable Development Goals

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The UN Sustainable Development Goals (SDGs) are a universal call to action to end poverty, protect the planet, and ensure that all people can enjoy peace and prosperity.

Also known as the Agenda 2030, the SDGs were agreed in 2015 by the UN General Assembly (Resolution 70/1). They were adopted by all UN Member States, and 2030 was set as the deadline for achieving them.

Compared to the Millennium Development Goals (MDGs),

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which they succeed, the SDGs cover more ground, with wider ambitions to address inequalities, climate change, economic growth, decent jobs, cities, industrialization, oceans, ecosystems, energy, sustainable consumption and production, peace, and justice. The SDGs are also universal, applying to all countries, whereas the MDGs had only been intended for action in developing countries.

The 17 interdependent goals are broken down into 169 targets. At the global level, progress is monitored and reviewed using a set of 232 indicators. The Addis Ababa Action Agenda provides concrete policies and actions to further support the implementation of the 2030 Agenda. Each year, the UN Secretary General also publishes a report documenting progress towards the targets. In addition, the annual meetings of the High-level Political Forum on Sustainable Development (HLPF) continues to play a central role in reviewing global progress towards the SDGs.

At the national level, even though the SDGs are not legally binding, governments are expected to implement country-led sustainable development strategies, including resource mobilisation and financing strategies, and to develop their own national indicators to assist in monitoring progress made on the goals and targets.

SDG 17 stresses the importance of multi-stakeholder partnerships to achieve the goals. The mobilisation of governments, local authorities, civil society, and the private sector is needed to achieve this aim. Today, progress is being made in many places, but, overall, action to meet the SDGs is not yet advancing at the speed or scale required. This decade must therefore deliver rapid and ambitious action to meet the SDGs by 2030.

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## Key terms

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### SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions.

For the purposes of SDG 16, the following terms are defined:

**‘Peaceful societies’:** While there is no universally acknowledged definition of peace, it means more than just the absence of conflict. 20 years ago, the UN identified the conditions that would support a culture of peace, which now hold new relevance within the sustainable development agenda. These conditions were based on:

- Culture of peace through education
- Sustainable economic and social development
- Respect for all human rights
- Equality between women and men
- Democratic participation
- Understanding, tolerance, and solidarity
- Participatory communication and the free flow of information and knowledge
- International peace and security <sup>1</sup>

The Institute of Economics and Peace additionally offers an approach based on the concept of Positive Peace,<sup>2</sup> comprising eight key pillars:

- i. Well-functioning government
- ii. Sound business environment
- iii. Equitable distribution of resources
- iv. Acceptance of the rights of others
- v. Good relations with neighbouring countries
- vi. Low levels of corruption
- vii. High levels of human capital
- viii. Free flow of information.

**‘Access to Justice’:** According to the UN, ‘access to justice is a basic principle of the rule of law. In the absence of access to justice, people, especially members of vulnerable groups, are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable.’<sup>3</sup> Strengthening access to justice involves raising awareness about legal rights as well as legal aid services to overcome financial obstacles to access to justice.

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1 UN General Assembly (1999). *UN Declaration and Programme of Action on a Culture of Peace, Document A/53/243* [online]. Available at: <https://undocs.org/en/A/RES/53/243>

2 Institute for Economics & Peace (2019). *Positive Peace Report 2019: Analysing the Factors that Sustain Peace*. [online] p. 8. Available at: <https://www.visionofhumanity.org/wp-content/uploads/2020/10/PPR-2019-web.pdf>

3 United Nations and the Rule of Law (n.d.). *Access to Justice*. [online]. Available at: <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/>. See also UN General Assembly (2012). *Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels. Document A/RES/67/1, para. 14*. Available at: <https://www.un.org/ruleoflaw/files/A-RES-67-1.pdf>



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**‘Inclusive Societies’:** Within the Sustainable Development Agenda, the UN has committed to ‘leaving no one behind.’<sup>4</sup> In 1995, the Copenhagen World Summit for Social Development defined an inclusive society as ‘a society for all, in which every individual, each with rights and responsibilities, has an active role to play.’<sup>5</sup> The UN Department of Economic and Social Affairs interrelates social inclusion with social cohesion.<sup>Same as 5</sup>

- ‘Social inclusion is the process by which efforts are made to ensure equal opportunities – that everyone, regardless of their background, can achieve their full potential in life. Such efforts include policies and actions that promote equal access to (public) services as well as enable citizens’ participation in the decision-making processes that affect their lives.’
- ‘Social cohesion is a related concept that parallels that of social integration in many respects. A socially cohesive society is one where all groups have a sense of belonging,

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**Strengthening access to justice involves raising awareness about legal rights as well as legal aid services to overcome financial obstacles to access to justice.**

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participation, inclusion, recognition and legitimacy. Such societies are not necessarily demographically homogenous. Rather, by respecting diversity, they harness the potential residing in their societal diversity (in terms of ideas, opinions, skills, etc.). Therefore, they are less prone to slip into destructive patterns of tension and conflict when different interests collide.’

**‘Effective, accountable and inclusive institutions’:** The UN recognises that formal and informal institutions determine ‘how decisions are made, how resources are allocated, how well markets function, how natural resources are governed, how conflicts are managed, and how violence and crime are prevented and addressed.’<sup>6</sup> Effective, accountable, and inclusive institutions are based on effective rule of law, responding to the needs of people and provide timely, appropriate and equitable access to services. Such institutions foster equality and trust among communities, businesses and people by securing their participation and engagement, and tackling corruption.

**‘Rule of Law’:** A report from the UN Secretary-General, issued in 2004, set out the following definition of this complex concept:<sup>7</sup>

‘The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international

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4 UN General Assembly, (2015). *Transforming our World: The 2030 Agenda for Sustainable Development*. Document A/RES/70/1. Preamble. Available at: <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

5 UN Department of Economic and Social Affairs (n.d.). *Social Inclusion*. [online]. Available at: [https://www.un.org/development/desa/socialperspectiveondevelopment/issues/social-integration.html\(July%201\).pdf](https://www.un.org/development/desa/socialperspectiveondevelopment/issues/social-integration.html(July%201).pdf)

6 United Nations (n.d.). *Building Effective, Accountable and Inclusive Institutions*. *Interactive Dialogue No. 5*. [online] p. 1. Available at: <https://sustainabledevelopment.un.org/content/documents/8161Interactive%20Dialogue%205%20-%20Institutions%20and%20Governance.pdf>

7 UN Security Council (2004). *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*. *Report of the Secretary General*. Document S/2004/616, para. 6. [online].



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human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.’

During the process of deliberation on the SDGs, the UN General Assembly made the connection between the rule of law and development clear. A 2012 UN General Assembly Declaration States:<sup>8</sup>

‘The advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and hunger and the full realisation of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law, and for this reason we are convinced that this interrelationship should be considered in the post-2015 international development agenda.’



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Available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2004/616](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616)

8 UN General Assembly (2012). *Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels*. Document A/RES/67/1, para. 7.

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## Overview of the targets

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SDG 16 is a goal in itself but also necessary for the implementation of much of the 2030 Agenda. Strong rule of law, transparent institutions, respect for fundamental rights, and protection against crime are necessary to peaceful and inclusive societies. They are the cornerstone to achieving the other 16 SDGs.

The 2019 UN Report on the advancement of the SDGs bluntly States that ‘realising the goal of peaceful, just, and inclusive societies is still a long way off. In recent years, no substantial

advances have been made towards ending violence, promoting the rule of law, strengthening institutions at all levels, or increasing access to justice.’<sup>9</sup>

The following breakdown of each target under SDG 16 provides an insight into the current global situation on social inclusion, access to justice, and accountability. It reveals the pressures and issues relevant to the achievement of each target.

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## A note on indicators and data measurement

Global indicators to measure progress towards the targets of SDG 16 have been identified by the UN. States are expected to produce and report the data for these indicators, which is then collated by the UN at the global level. However, the availability and quality of data remains a major issue, especially in low-income countries, due to a lack of adequate resources allocated towards data collection and analysis.<sup>10</sup> Whilst this issue exists for the whole SDG agenda, this is particularly acute for SDG 16.

The targets under SDG 16 are complex and multidimensional. For instance, target 16.3 seeks to promote the rule of law and ensure access to justice for all. Both indicators for this target only cover some aspects of rule of law and access to justice, which are multidimensional concepts. Additionally, several targets of SDG 16 are linked with illicit and covert activities (trafficking, organised crime, corruption, etc.), making it difficult to collect accurate data. There is also an issue of national officials, especially in countries with higher corruption levels, having career or political incentives to produce data sets that paint their governments in a favourable light.

It is therefore important to note that data trends need to be approached critically when determining progress towards SDG 16. Observers should take their roles seriously in ensuring that the data sets are real, reliable and appropriately interpreted.

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[online]. Available at: <https://www.un.org/ruleoflaw/files/A-RES-67-1.pdf>

<sup>9</sup> UN Statistics Division (2019). *Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*. [online]. Available at: <https://unstats.un.org/sdgs/report/2019/goal-16/>

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TARGET 16-1



## Significantly reduce all forms of violence and related death rates everywhere

This objective is highly ambitious and rather than focusing on a specific type of violence in a certain area, it aims to reduce all forms of violence in all places. However, the target is also ambiguous as there is no explicit numerical goal to qualify what 'significantly reduce' means.

The following indicators are used to measure progress towards this target:

- the number of victims of conflict-related deaths and intentional homicide per 100,000 population
- the proportion of population subjected to physical, psychological and sexual violence in previous 12 months
- the proportion of the population which feel safe walking alone around where they live.

According to the World Bank, 800 million of the world's population reside in countries affected by fragility, conflict, and violence.<sup>11</sup> Internal conflicts often generate external consequences like human displacement, increased crime, and terrorism that transcend local borders and spill over into the international community. Extreme poverty is profoundly linked to violence as most recent statistics show that poverty

is increasingly concentrated in fragile and conflict affected situations. Poverty in these areas typically involves many complex deprivations.<sup>12</sup>

Non-conflict States can also have widespread violence issues. Between 2007 and 2017, the global homicide rate was roughly stable at 6 per 100,000 people. Lethal violence is increasingly concentrated in two regions of the world: Latin America and the Caribbean, and sub-Saharan Africa.<sup>13</sup> There exists a correlation between social inequality and urban violence: homicide rates are four times higher in countries with a Gini index greater than 0.45 (representing high income inequality) than in more equal societies.<sup>14</sup>

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**Internal conflicts often generate external consequences like human displacement, increased crime, and terrorism that transcend local borders and spill over into international community.**

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10 United Nations and World Bank (2018). *Pathways to Peace: Inclusive Approaches to Preventing Violent Conflict*. Washington, DC: World Bank, p. 2.

11 World Bank (2020). *Violence without Borders: The Internationalization of Crime and Conflict*. Policy Research Reports. Washington, DC: World Bank.

12 Corral, P., Irwin, A., Krishnan, N., Mahler, D. (2020). *Fragility and Conflict: On the Front Lines of the Fight against Poverty*. Washington, DC: World Bank [online]. Available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33324/9781464815409.pdf?sequence=14&isAllowed=y>

13 UN Statistics Division (2019). *Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*. United Nations [online]. Available at: <https://unstats.un.org/sdgs/report/2019/goal-16/>

14 United Nations (2017). *The Sustainable Development Goals Report 2017*. [online] p. 50. Available at: <https://unstats.un.org/sdgs/files/report/2017/the-sustainable-development-goals-report-2017.pdf>



## End abuse, exploitation, trafficking, and all forms of violence against and torture of children

All forms of violence against children under 18 years old constitute 'violence against children'.<sup>15</sup> It can be physical, sexual, or emotional, and is often connected to personal, cultural, economic and social issues. Violence against children can also appear in multiple settings: at home, in schools, in all types of care, within the justice system, at work (which is often illegal), and on the internet.<sup>16</sup>

Protection for children against violence is particularly necessary as failure to do so may result in a cyclical repetition of violence: those who are exposed to violence from a young age are at heightened risks for self-directed and inter-personal violence, which can carry over to the future generation of children.<sup>17</sup>

The following indicators are used to measure progress towards this target:

- the proportion of children who experienced physical punishment and/or psychological aggression by caregivers in the past month
- the number of victims of human trafficking

- the proportion of young women and men who experienced sexual violence by age 18

Violent discipline at home is the most common form of violence experienced by children. All forms of violent discipline, physical and psychological, are a violation of children's rights. According to UNESCO, in a majority of countries, more than two thirds of children are subjected to violent discipline by caregivers.<sup>18</sup> Mechanisms to protect children from this form of violence are insufficient. At present, only 62 States have fully prohibited all forms of corporal punishment against children, leaving many vulnerable to more violent forms of discipline.<sup>19</sup>

The number of victims of human trafficking around the world is growing. It is unclear whether this recorded increase is a sign of stepped-up efforts by authorities to combat trafficking and to detect victims or whether it reflects a growing trafficking problem. Victims are mostly trafficked for sexual exploitation (59%) and forced labour (34%).<sup>20</sup> Estimates show that nearly one third of identified trafficking victims globally are children.<sup>21</sup> Children in vulnerable circumstances, such as migrant children or unaccompanied minors, represent one of the main targets of abuse and violence. Armed conflicts and displacements often result in the detention, forced labour and trafficking of children.

Sexual violence is one of the most unsettling of children's rights violations. Sexual violence is an umbrella term used

15 World Health Organization (2020). *Violence Against Children*. [online]. Available at: <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>

16 Pinheiro, P. (2006). *World Report on Violence against Children*. The United Nations Secretary-General's Study on Violence against Children, [online] p. 6. Available at: <https://www.thinkchildsafe.org/thinkbefore donating/wp-content/uploads/World-Report-On-Violence-Against-Children-UN.pdf>

17 World Health Organization (2020). *Violence Against Children*. [online]. Available at: <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>

18 UNICEF (2019). *Violent discipline*. [online]. Available at: <https://data.unicef.org/topic/child-protection/violence/violent-discipline/>

19 Global Initiative to End All Corporal Punishment of Children (2020). *Global progress*. [online]. Available at: <https://endcorporalpunishment.org/countdown/>

20 UN Department of Economic and Social Affairs (2019). *The Sustainable Development Goals Report 2019*. [online] p. 54. Available at: <https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf>

21 UNICEF (2018). *Children Account for Nearly One-Third of Identified Trafficking Victims Globally*. Press Release [online]. Available at: <https://www.unicef.org/press-releases/children->

to cover different types of sexual victimisation, from direct physical contact, to unwanted exposure, to sexual language and images. Currently, missing data from many countries

makes it difficult to evaluate progress since 2016 towards this target.<sup>22</sup>



### **Promote the rule of law at the national and international levels and ensure equal access to justice for all**

The following indicators are used to measure progress towards this target:

- the proportion of victims of violence who have reported their victimisation within the previous 12 months
- the number of unsentenced detainees as a proportion of overall prison population.

Reporting victimisation to competent authorities is the first step for victims to seek justice. When alerted, competent authorities can conduct proper investigations, and administer justice. Lack of trust in the ability of the police or other authorities, or difficulties in accessing them, can negatively influence the reporting behaviour of the victims. Reporting rates can provide a direct measure of the confidence of victims in the ability of the authorities to provide assistance and to bring perpetrators to justice.

The second indicator is based on the principle that persons

awaiting trial shall not be detained in custody unnecessarily. This, in turn, is premised on the right to be presumed innocent until proven guilty. From a development perspective, extensive use of pre-sentence detention can divert criminal justice system resources. Pre-judgment detention can also result in a loss of income for the accused and their family. The proportion of prisoners held in detention without being sentenced for a crime remained almost constant in the last decade: from 32 per cent in 2003–2005 to 31 per cent in 2014–2016.<sup>23</sup>

The rule of law is a broad concept that encompasses many areas. Yet, the indicators chosen for this target are highly restrictive as they only track progress in the functioning of the criminal justice system.<sup>24</sup> In 2019, the UN Inter-agency and Expert Group on Sustainable Development Goal Indicators proposed the addition of a new indicator: the proportion of the population who have experienced a dispute in the past two years and who accessed a formal or informal dispute resolution mechanism. The aim was to focus on access to justice in relation to issues, for example disputes on labour, land tenures, or commercial transactions. These can have a strong impact of citizens' rights and entitlements.<sup>25</sup>

[account-nearly-one-third-identified-trafficking-victims-globally](#)

22 Hillis, S., Mercy, J., Amobi, S. and Kress, H. (2016). *Global Prevalence of Past-Year Violence Against Children: A Systematic Review and Minimum Estimates*. Pediatrics [online]. Available at: <https://pediatrics.aappublications.org/content/137/3/e20154079>

23 United Nations (2018). *The Sustainable Development Goals Report*. [online] p. 12. Available at: <https://unstats.un.org/sdgs/files/report/2018/TheSustainableDevelopmentGoalsReport2018-EN.pdf>

24 United Nations (2017). *The Sustainable Development Goals Report 2017*. [online] pp. 50-53. Available at: <https://unstats.un.org/sdgs/files/report/2017/thesustainabledevelopmentgoalsreport2017.pdf>

25 UN Statistics Division (2020). *IAEG-SDGs. 2020 Comprehensive Review Proposals Submitted to the 51st session of the United Nations Statistical Commission for its consideration*. [online]. Available at: <https://unstats.un.org/sdgs/iaeg-sdgs/2020-comprev/UNSC-proposal/>



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A wider approach could consider factors such as the treatment of members of vulnerable groups, or the independence of the judiciary.<sup>26</sup>

The World Justice Project rates each country in the world on the basis of the State of their rule of law. Performance is assessed through 44 indicators organised around 8 themes:

- i. constraints on government powers
- ii. absence of corruption
- iii. open government
- iv. fundamental rights
- v. order and security
- vi. regulatory enforcement
- vii. civil justice

viii. criminal justice.

Questionnaires based on this conceptual framework administered to collect experiences and perceptions of the general public and of legal practitioners and experts in 128 countries. Based on a rating from '1' (absolute rule of law) to '0' (no rule of law), in 2020, scores vary from 0.90 for Denmark to 0.27 for Venezuela.<sup>27</sup> In 2020, for the third year in a row, more countries declined than improved in their overall performance, 'continuing a negative slide toward weakening and stagnating rule of law around the world'. The declines came from all regions of the world and were particularly concerning constraints on government powers like the ability of the legislature, the judiciary and, civil society to effectively limit or control governmental action.<sup>28</sup>



**By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime**

Between 2004 and 2013, emerging economies in the developing world lost US\$7.8 trillion in illicit financial flows.<sup>29</sup> These include tax evasion, crime, and the fraudulent misinvoicing of trade transactions. Together with bribery and corruption, these issues affect both the Global North

and South. Given the international nature of financial flows, it is difficult to trace the movement of money, especially with the prominence of offshore accounts and tax haven countries. Yet, emerging international cooperation in combatting illicit financial flows has placed the issue in the limelight. There is now increased support from G20 leaders and organisations such as the OECD, as well as policy measures such as tax information exchange.<sup>30</sup> As of 2018, 96 countries have committed to the automatic exchange of financial information with other countries.<sup>31</sup>

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26 United Nations (2011). *Rule of Law Indicators. Implementation Guide and Project Tools*. [online]. Available at: [https://peacekeeping.un.org/sites/default/files/un\\_rule\\_of\\_law\\_indicators.pdf](https://peacekeeping.un.org/sites/default/files/un_rule_of_law_indicators.pdf)

27 World Justice Project (2020). *Rule of Law Index*. [online] pp. 16-17. Available at: [https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf)

28 World Justice Project (2020). *WJP Rule of Law index 2020: Global Press Release*. [online]. Available at: <https://worldjusticeproject.org/news/wjp-rule-law-index-2020-global-press-release>

29 Kar, D. and Spanjers, J., (2015). *Illicit Financial Flows from Developing Countries: 2004 – 2013. Global Financial Integrity* [online]. Available at: <http://www.gfintegrity.org/report/illicit-financial-flows-from-developing-countries-2004-2013/>

30 Global Financial Initiative (2019). *Illicit Financial Flows to and from 148 Developing Countries: 2006-2015*. [online]. Available at: <https://www.gfintegrity.org/report/2019-iff-update/>

31 Ibid

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Trafficking of arms fuels civil wars, regional conflicts and violence.<sup>32</sup> While there is a considerable focus on reducing the supply of illicit firearms and ammunition, a challenge is to develop policies and interventions that would reduce the demand for arms and ammunition. Each year, transnational organised crime – which includes human trafficking, slavery, drug trafficking, and sale of illegal firearms – generates an estimated \$870 billion. This further undermines economic, social, cultural and political development and breaches many human rights.<sup>33</sup>

The following indicators are used to measure progress towards this target:

- the total value of inward and outward illicit financial flows
- the proportion of seized found or surrendered arms whose illicit origin or context has been traced or established by a competent authority

Perhaps due to the complexity of these issues, there is a critical lack of available data to measure progress on this target. This suggests a lack of political commitment. In its 2019 review of SDG 16, the UN High-level Political Forum called for all countries to pay more attention to issues such as illicit financial flows, illicit arms flows, and corruption.<sup>34</sup>



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32 Small Arms Survey (n.d.). *Illicit Trafficking*. [online]. Available at: <http://www.smallarmssurvey.org/weapons-and-markets/transfers/illicit-trafficking.html>

33 UNODC (n.d.). *Transnational organized crime: the globalized illegal economy*. UNODC [online]. Available at: [https://www.unodc.org/documents/toc/factsheets/TOC12\\_fs\\_general\\_EN\\_HIRES.pdf](https://www.unodc.org/documents/toc/factsheets/TOC12_fs_general_EN_HIRES.pdf)

34 UN Department of Economic and Social Affairs, International Development Organization and Government of Italy (2019). *SDG 16 Conference in preparation for HLPF 2019*. [online] p. 6. Available at: [https://sustainabledevelopment.un.org/content/documents/23814SDG\\_16\\_MAIN\\_SUMMARY\\_SDG\\_Conference\\_Rome\\_May2019.pdf](https://sustainabledevelopment.un.org/content/documents/23814SDG_16_MAIN_SUMMARY_SDG_Conference_Rome_May2019.pdf)



## Substantially reduce corruption and bribery in all their forms



Transparency International defines corruption as ‘the abuse of entrusted power for private gain,’<sup>35</sup> which undermines people’s trust in the political and economic system, as well as in their institutions and leaders.<sup>36</sup>

International corruption, in the form of bribes and stolen money, costs the global economy \$3.6 trillion per year.<sup>37</sup> According to the UN Office on Drugs and Crime, ‘economic development in developing countries is stunted because foreign direct investment is discouraged, and small businesses often find it impossible to overcome the “start-up costs” required because of corruption.’ Moreover, corruption weakens democracy through undermining the rule of law. It hampers the ability of governmental institutions to function effectively, often resulting in the denial of basic services to those most in need of it, causing disproportionate harm to the poor.<sup>38</sup> Thus, corruption has been named by the UN as one of the largest impediments to achieving its 2030 SDGs.<sup>39</sup>

The following indicators are used to measure progress towards this target:

- the proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months

- the proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months.

Transparency International’s Corruption Perception Index is arguably the most widely used indicator of corruption worldwide. This index is constructed through surveys of various experts on their perception of the level of corruption in a particular country. Over the past decade, scores are stable. Most countries are showing little to no improvement in tackling corruption.<sup>40</sup>



35 Transparency International (n.d.). *What is Corruption?* [online]. Available at <http://www.transparency.org/what-is-corruption/>

36 Ibid

37 Johnson, S. (2018). *Corruption is Costing the Global Economy \$3.6 Billion Dollars Every Year*. World Economic Forum [online]. Available at: <https://www.weforum.org/agenda/2018/12/the-global-economy-loses-3-6-trillion-to-corruption-each-year-says-u-n/>

38 UN Office on Drugs and Crime (n.d.). *UNODC’s Action Against Corruption and Economic Crime*. [online]. Available at: <https://www.unodc.org/unodc/en/corruption/index.html>

39 Ibid

40 Transparency International (2020). *CPI 2019 Global Highlights*. [online]. Available at: <https://www.transparency.org/en/news/cpi-2019-global-highlights>

TARGET 16-6



## Develop effective, accountable and transparent institutions at all levels

Building effective, accountable, and transparent public services, and strengthening public governance is essential to achieve not only this target but all the SDGs.

The following indicators are used to measure progress towards this target:

- primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar);<sup>41</sup>
- the proportion of population satisfied with their last experience of public services.<sup>42</sup>

Effective budgeting is necessary to ensure the delivery

of quality public services. Globally, since 2000, budget reliability has increased, particularly in Eastern and Southeast Asian countries.<sup>43</sup> Sub-Saharan African countries still face challenges in implementing realistic budgets, and around 40% of countries have experienced a deterioration in the reliability of their budget estimates.<sup>44</sup> The indicator on accountability only examines perceptions of public services. To date, there is no publicly available data for this indicator.

Finally, the target aims to develop transparent institutions. However, 'transparency' is not defined explicitly, nor does it have a specific indicator. The notion of transparency is closely related to accountability. Open data allows people to engage with government policies and provides a platform for citizens to exercise their democratic rights to hold governments accountable for their actions.<sup>45</sup>

TARGET 16-7



## Ensure responsive, inclusive, participatory and representative decision-making at all levels

This target addresses democratic governance and combines different elements, such as electoral participation, representativeness of political institutions, and civil society participation.

The following indicators are used to measure progress towards this target:

- the proportion of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions
- the proportion of population who believe decision-

41 United Nations (2019). *Tier Classification for Global SDG Indicators*. [online] p. 34. Available at: [https://unstats.un.org/sdgs/files/Tier%20Classification%20of%20SDG%20Indicators\\_13%20February%202019\\_web.pdf](https://unstats.un.org/sdgs/files/Tier%20Classification%20of%20SDG%20Indicators_13%20February%202019_web.pdf)

42 Ibid

43 United Nations (2017). *The Sustainable Development Goals Report*. [online] p. 52. Available at: <https://unstats.un.org/sdgs/files/report/2017/the-sustainable-development-goals-report-2017.pdf>

44 Ibid

45 Institute for Government (n.d.). *Accountability In Modern Government*. [online]. Available at: <https://www.instituteforgovernment.org.uk/our-work/whitehall/accountability-modern-government>

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making is inclusive and responsive, by sex, age, disability and population group.

The first indicator focuses on the inclusiveness in national and local legislatures, public services and judiciary. The second indicator focuses on the proportion of the population who believe decision-making is inclusive and responsive.

As with many of the targets under SDG 16, many national statistics offices around the world have traditionally not captured data related to these indicators, making global progress and trends difficult to monitor.

Voting rights and democratic participation remain serious issues in countries where electoral processes have been

abused or have resulted in post-election violence. These challenges are amplified by authoritarian leaders who insist on staying in power and impacting democratic processes by blocking political dissent.

Ensuring that decision-making at all levels is responsive, inclusive, participatory, and representative remains a global challenge. Decision-making often relies on traditional means of engagement that do not adequately represent all segments of the population. For instance, despite representing one fifth of the global population, young people, and especially young women, are largely underrepresented in formal political institutions.<sup>46</sup> Ethnic minorities are also disenfranchised through underrepresentation.



### **Broaden and strengthen the participation of developing countries in the institutions of global governance**

The structural design of international institutions such as the UN Security Council and International Monetary Fund (IMF) have allowed many politically and economically powerful Global North States to remain primary members. This, combined with the distribution of voting rights within them, enables these States to influence key policies. Nevertheless, there is increasing recognition of the imbalances existing within the current regime of global governance. This target recognises the importance of enhancing the inclusiveness and

representation of developing countries within the decision-making processes of international institutions.<sup>47</sup>

The indicator used to measure progress towards this target is the proportion of members and voting rights of developing countries in international organizations.

This indicator measures the broadening and strengthening of developing countries' influence in international organisations. Organisations of the World Bank Group currently operate under complex systems where the voting share depends on the capital stocks held by Member States. While developing countries represent 74% of the members, they only have a voting share ranging from 32% (International Finance

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46 United Nations Youth (2013). *Youth, Political Participation and Decision Making*. [online] p. 1. Available at: <http://www.un.org/esa/socdev/documents/youth/fact-sheets/youth-political-participation.pdf>

47 OHCHR, OHRLLS, UNDESA, UNEP and UNFPA (2013). *Global governance and governance of the global commons in the global partnership for development beyond 2015*. [online]. Available at: [https://www.un.org/en/development/desa/policy/untaskteam\\_undf/thinkpieces/24\\_thinkpiece\\_global\\_governance.pdf](https://www.un.org/en/development/desa/policy/untaskteam_undf/thinkpieces/24_thinkpiece_global_governance.pdf)

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Corporation) to 38% (International Bank for Reconstruction and Development).

There has been some recent progress towards addressing this imbalance: in 2016, a reform at the IMF shifted around 6% of quotas from over-represented to under-represented Member States, to further enhance the representation of emerging and developing countries. Meanwhile, reform of the UN Security Council, such as the expansion of the permanent

members and the adjustment of the veto power, is often discussed within the General Assembly.

Addressing these imbalances, to increase the ability of developing nations to act within international institutions, is intrinsically linked with increasing global equality. This target is therefore similar to target 10.6 of SDG 10, which seeks to ‘reduce inequality within and among countries’.

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TARGET 16-9



### By 2030, provide legal identity for all, including birth registration

Legal identity is ‘the recognition of a person’s existence before the law, facilitating the realisation of specific rights and corresponding duties.’<sup>48</sup> To access services such as health, education, financial and judicial services, people need to prove their identity. Official identification is also crucial to protect children from child labour, child marriage, trafficking and exploitation.

The indicator used to measure progress towards this target is the proportion of children under 5 years of age whose births have been registered with a civil authority.

Currently, approximately 2.4 billion people lack legal identity.<sup>49</sup> Over the period 2010 to 2018, less than three quarters of children worldwide have had their births registered. Many countries and regions have reached universal or near universal coverage, but in sub-Saharan Africa, fewer than half (46 %) of all children under 5-years-old are registered.<sup>50</sup>

Stateless persons are at a high risk of having no legal identity, as it is typically a State institution which facilitates the registration process of a new-born. An estimated 12 million people are Stateless. As an example, about a dozen ethnic minority groups that live in Thailand’s northern and western highlands account for 600,000 to 1 million Stateless people.<sup>51</sup>

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48 Lopez, L., Sejersen, T., Oakeshott, N., Fajth, G. Khilji, T. and Panta, N. (2014). *Civil Registration, Human Rights, and Social Protection in Asia and the Pacific*. *Asia Pacific Population Journal* Vol 29 (1), p 77.

49 Dahan, M. and Gelb, A. (2015). *The Identity Target in the Post-2015 Development Agenda*. [online] The World Bank. Available at: <http://documents.worldbank.org/curated/en/870421467993220562/pdf/102826-BRI-PUBLIC-ADD-SERIES-Box394842B-1603399-TransportICT-Newsletter-Note-19.pdf>

50 United Nations (2019). *The Sustainable Development Goals Report 2019*. [online] p. 55. Available at: <https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf>

51 International Justice Mission (2019). *Citizenship Rights Abuse*. The Facts [online]. Available at: <https://www.ijm.org/our-work/citizenship-rights-abuse>



## Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

The right to information is directly linked to the freedom of expression. This is recognised by multiple international instruments such as Article 19 of the UN Declaration of Human Rights<sup>52</sup> and Resolution 59 of the UN General Assembly.<sup>53</sup> Democracy is strengthened when access to information is free as governments can be held accountable for their actions and citizens can make informed decisions regarding their political choices.

The following indicators are used to measure progress towards this target:

- the number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention, and torture of journalists, associated media personnel, trade unionists, and human rights advocates in the previous 12 months
- the number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

The first indicator measures the ability of people to exercise fundamental freedoms. The killing of journalists, trade unionists, and other human rights defenders have a chilling effect on people's decision to use those freedoms. Between 2015 to 2018, the murder rates among those who stand up for

the fundamental rights of others have risen. As exemplified by the murder of the indigenous leader Emyra Waiãpi in Brazil in July 2019, half of the victims had been working with communities on issues involving land, environment, the rights of minorities and indigenous peoples and the impact of business activities.<sup>54</sup>

Public access to information is measured by the number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information. According to the 2019 Report on the SDGs, binding laws and policies giving individuals the right to access information held by public authorities have been adopted by 125 countries, with at least 31 countries adopting such laws since 2013. However, the quality of these legal frameworks is uneven and many lack the adequate provisions to render their implementation effective.<sup>55</sup>



52 United Nations (1948). *Universal Declaration of Human Rights*. OHCHR [online]. Available at: [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf)

53 UNESCO (2018). *Communication and Information*. [online]. Available at: <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/freedom-of-information/browse/1/>

54 UN Statistics Division (2019). *Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*. UN Statistics Division [online]. Available at: <https://unstats.un.org/sdgs/report/2019/goal-16/>

55 Ibid

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## Key actions lawyers can take

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The final section of this chapter provides more details on how the international legal community can engage in efforts to achieve SDG 16. However, the following short summary

describes some of the key actions that lawyers can take to contribute to the sustainable development agenda on peace, justice, and strong institutions.

### Learn and educate

SDG 16 encompasses many topics that are directly linked with law, and justice. Legal professionals can enhance their understanding of SDG 16 along with the policy, and

programmatic efforts to advance it. Resources highlighting the role of the law, and of the legal profession in fostering peace, justice, and strong institutions are widely available.

### Integrate

A global effort is underway to engage businesses, and financial institutions in supporting the achievement of the SDG agenda. Corporate counsel, as well as lawyers who advise private sector clients, can play a key role in facilitating awareness and action.

The UN Global Compact is a leading corporate

responsibility initiative, encouraging companies to support a core set of values in the areas of human rights, labour rights, environment, and anti-corruption. The UN Guiding Principles on Business and Human Rights aim to provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity.

### Act

In every country, the legal profession has a pivotal role in ensuring a well-functioning, accountable and transparent government. Justice institutions where legal standards and citizens' experience of the law and legal services are improved are also vital. Through pro bono work, advocacy, and community involvement, law firms around the world

can contribute to ensuring access to justice for all. This includes enforcing the global legal order by providing pro bono support to complex, multilateral law, and policy making process, strengthening access to justice and rule of law, and assisting civil society organisations, and justice defenders.



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# Elements of the international legal framework

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## Charter of the United Nations

**Adopted:** 26 June 1945

**Entered into force:** 24 October 1945

**Status of ratification (as of June 2021):** 193 Parties

The Charter that established the United Nations provides a foundation for key elements of SDG 16. The Preamble expresses the shared determination:

- to save succeeding generations from the scourge of war,
- to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small
- to establish conditions under which justice and respect

for the obligations arising from treaties and other sources of international law can be maintained, and

- to promote social progress and better standards of life in larger freedom.

Article 1 sets out the Purposes of the United Nations, among which are the commitments to ‘maintain international peace and security’ and to promote and encourage ‘respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion’.

Seventy-five years on, this international commitment to peace, security, and fundamental freedoms holds new relevance within the context of the Sustainable Development Agenda.





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## Statute of the International Court of Justice

**Adopted:** 26 June 1945 (as an annex to the Charter of the United Nations)

**Entered into force:** 24 October 1945

**Status of ratification (as of June 2021):** 193 Parties

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (Art.92, UN Charter). The Court decides legal disputes between States regarding interpretations of treaties or questions of international law. The Court may also render advisory opinions on legal questions raised by United Nations organs and agencies.<sup>56</sup> Under Article 38 of the Statute, the Court is to render decisions based on international conventions, international custom, general principles of law, and, subsidiarily, judicial decisions and the

teachings of the most highly qualified publicists of the various nations.

Between 22 May 1947, when the first case was filed, and 11 November 2019, 178 cases have been filed before the Court. The ICJ serves as a pillar of the post-war international legal order, contributing to the peaceful settlement of disputes and to the development of international law.<sup>57</sup>

The seat of the Court is established in The Hague at the Peace Palace. In September of 2018, the Ministry of Foreign Affairs of The Netherlands appointed the Peace Palace as the ‘SDG 16 House’, the first of its kind in the world.<sup>58</sup> The Carnegie Foundation, which owns and manages the Peace Palace, hosts dialogues on contemporary issues in peacebuilding and international cooperation.

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## Universal Declaration of Human Rights

**Adopted by the UN General Assembly:** 10 December 1948

This landmark declaration urges all nations to promote respect for specified rights and freedoms, and to secure their universal and effective observance through progressive national and international measures. Its articles set out a series of civil, political, economic, social, and cultural rights. Although the UDHR was not intended to create legally binding obligations, it now represents a common standard of achievement that is widely regarded as customary international law. Moreover, many of its provisions have subsequently been adopted in

binding international human rights instruments.

Of note in the context of SDG 16 are Articles 2 (freedom from discrimination), 3 (right to life, liberty and security), 4 (prohibition of slavery), 5 (prohibition of torture and cruel, inhuman and degrading treatment), 6 (right to recognition before the law), 7 (right to equality before the law), 8 (access to justice), 9 (freedom from arbitrary detention), 10 (right to a fair trial), 12 (right to privacy), 19 (freedom of expression), 21 (right to partake in public affairs) and 28 which provides: ‘Everyone is entitled to a social and international order in which the rights

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<sup>56</sup> International Court of Justice (n.d.). *Statute of the International Court of Justice*, Art. 36 and 65-68 [online]. Available at: <https://www.icj-cij.org/en/statute>

<sup>57</sup> International Court of Justice (2014). *Handbook*. 6th Edition [online]. Available at: <https://www.icj-cij.org/files/publications/handbook-of-the-court-en.pdf>

<sup>58</sup> Carnegie Peacebuilding Conversations (n.d.) *Programme for the peace dialogues*. [online]. Available at: <https://www.carnegiepeacebuildingconversations.com/>

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and freedoms set forth in the Declaration can be fully realized.

The advancement of SDG 16 requires attention to the full range of human rights instruments and their implementation

mechanisms. Nine core UN human rights conventions are in force and legally binding on the Member States. A number of these are supplemented by optional protocols.

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## International Convention on the Elimination of All Forms of Racial Discrimination

**Adopted by the UN General Assembly:** 21 December 1965

**Entered into force:** 4 January 1969

**Status of Ratification (as of June 2021):** 182

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) seeks to ensure that human beings enjoy civil, political, economic and social rights without any distinction of race, colour, or national/ethnic origin. The ICERD requires States to both prohibit and eliminate racial

discrimination in all its forms.

The Committee on the Elimination of Racial Discrimination takes steps to monitor the work of States towards fulfilling their obligations under the Convention. Periodic reports are submitted to the Committee by State parties. There are processes for State-to-State complaints, as well as for individual complaints in the event ICERD rights may have been violated by a State party.

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## International Covenant on Civil and Political Rights

**Adopted by the UN General Assembly:** 16 December 1966

**Entered into force:** 23 March 1976

**Status of Ratification (as of June 2021):** 173

The International Covenant on Civil and Political Rights (ICCPR) commits all parties to respect the civil and political rights of individuals. With the UDHR and the International Covenant on Economic, Social and Cultural Rights, the ICCPR forms the International Bill of Human Rights.

An Optional Protocol, ratified by 116 States, recognises the competence of the UN Human Rights Committee to consider complaints from individuals who claim their rights under the

Covenant have been violated.

SDG 16 is based on the assumption that sustainable development cannot progress without peace, stability, human rights and effective governance, based on the rule of law. The ICCPR in its entirety is therefore relevant to SDG 16.

In line with the objective of peaceful societies and the reduction of violence, Article 6 affirms the inherent right to life of every human being. The right to life must be protected by law and no one can arbitrarily be deprived of their life.

Of paramount importance for the rule of law is Article 14 which enshrines the right to equality before courts and to a fair trial.

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This article aims to ensure the proper administration of justice. To this end, it guarantees a series of specific rights which are key elements of human rights protection and serve as a procedural means to safeguard the rule of law, including:

- equality before courts and tribunal
- the right to a fair and public hearing before a competent, independent and impartial tribunal
- the presumption of innocence in criminal matters.<sup>59</sup>

Article 24 recognises the right of every child to be registered at birth and to receive a name and a nationality.<sup>60</sup>

Article 25 recognises and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected, and the right to have access to public services. This is instrumental for responsive, inclusive, participatory, and representative decision-making.

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## International Covenant on Economic, Social, and Cultural Rights

**Adopted by the UN General Assembly:** 16 December 1966

**Entered into force:** 3 January 1976

**Status of ratification (as of June 2021):** 171 Parties

The International Covenant on Economic, Social, and Cultural Rights (ICESCR), drawing on the UDHR, affirms a series of human rights and encourages social progress. Legally binding on a large number of States, it indicates a wide consensus on economic, social and cultural human rights. However, a number of States have signed but not ratified the ICESCR, notably Cuba, Malaysia, Saudi Arabia, and the United States.

Article 2 of the ICESCR reflects a ‘progressive realisation principle’, imposing a duty on parties to ‘take steps... to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means.’

SDG 16 encompasses the protection of fundamental freedoms and human rights, which include economic social and cultural rights, making the ICESCR relevant in its entirety.



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<sup>59</sup> UN Human Rights Committee (2007). *General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial*. Document CCPR/C/GC/32 [online]. Available at: <https://www.refworld.org/docid/478b2b2f2.html>

<sup>60</sup> UN Human Rights Committee (1996). *CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service*. Document CCPR/C/21/Rev.1/Add.7 [online]. Available at: <https://www.refworld.org/docid/453883fc22.html>

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## Convention on the Elimination of all Forms of Discrimination against Women

**Adopted by the UN General Assembly:** 18 December 1979

**Entered into force:** 3 September 1981

**Status of ratification (as of June 2021):** 189 Parties

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) defines what comprises discrimination against women and sets an agenda to eliminate it. As with some other human rights instruments, a Committee is in place to monitor compliance with the Convention.

States must guarantee human rights and fundamental freedoms to women 'on a basis of equality with men' through:

- the public sphere, with a focus on political life, representation and rights to nationality;
- the social and economic sphere, with a focus on education, employment and health; and
- the private sphere, with a focus on equality in marriage

and family life.

Article 15 enshrines the equality of women and men before the law. States Parties must legally recognise that women have a legal capacity identical to that of men and the same opportunities to exercise that capacity. This includes equal rights to conclude contracts, administer property, and equal treatment in all stages of procedure in courts and tribunals.

With regard to inclusivity and representation of decision-making, Article 7 obliges States parties to take all appropriate measures to eliminate discrimination against women in political and public life. In particular, States must guarantee to women, on equal terms with men, the rights:

- to vote in all elections and to be eligible to all publicly elected bodies
- to participate in the formulation and implementation of public policies
- to participate in civil society organisations.

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## Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**Adopted by the UN General Assembly:** 10 December 1984

**Entered into force:** 26 June 1987

**Status of ratification (as of June 2021):** 171 Parties

The Convention Against Torture (CAT) confirms the general prohibition of torture and other cruel, inhuman or degrading treatment or punishment, affirmed in various

human rights instruments (UDHR, Article 5, ICCPR, Article 7). The prohibition of torture is absolute: no exceptional circumstances whatsoever (war or a threat of war, internal political instability or any other public emergency) may be invoked as a justification of torture (Article 2.2). The Convention obliges State parties to take active measures to prevent acts of torture in any territory under its jurisdiction.

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The Convention also offers to victims of torture the right to a prompt investigation and adequate redress and

compensation, including the right to rehabilitation.

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## Convention on the Rights of the Child

**Adopted by the UN General Assembly:** 20 November 1989

**Entered into force:** 2 September 1990

**Status of ratification (as of June 2021):** 196 Parties

The Convention on the Rights of the Child (CRC) sets out the civil, political, economic, social, health and cultural rights of children. It defines a child as 'any human being under the age of 18, unless the age of majority is attained earlier under national legislation'. The CRC is the most widely ratified international human rights treaty. Notably, the United States is the only country that has signed, but not ratified, this Convention.

SDG 16 contains explicit references to child rights. Its second target aims at ending abuse, exploitation, trafficking,

violence, and torture of children. According to Article 19 CRC, State parties must take all appropriate legislative, administrative, social, and educational measures to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. Articles 34 to 36 contain specific obligations to protect children from sexual exploitation and trafficking.

Article 7 CRC provides that children shall be registered immediately after their birth and have the right to a name and a nationality. It also States that children should, as far as possible, know and be cared for by their parents.

In line with the objective of promoting peaceful societies, Article 38 forbids States to recruit children younger than 15 years old into their armed forces.

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## Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

**Adopted by the UN General Assembly:** 18 December 1990

**Entered into force:** 1 July 2003

**Status of ratification (as of June 2021):** 56 Parties

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) is the most comprehensive treaty on the rights of migrant workers. It defines a migrant worker as 'a person who is to be

engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national'. It covers their civil, political, economic, social, and cultural rights. Most of the provisions of the ICRMW are applicable to all migrant workers, both documented and non-documented, and the members of their families. Several provisions are specifically applicable to those who are considered irregular or non-documented migrants.

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Compared to the other UN human rights instruments, this Convention achieved a much lower rate of ratification. Most of the ratifying States are in Western and Northern Africa, and in Latin America, regions where migrants traditionally originate from. Thus far, none of Western European countries, the US, Australia or Canada has signed or ratified the Convention.

Of particular relevance for SDG 16, the ICRMW reaffirms the rights of migrant workers and their families to life (Art. 9) and to freedom of expression (Art. 13) as well as their protection against torture (Art. 10), violence, physical injury, threats,

intimidation and arbitrary detention (Art. 16).

In relation with inclusivity and participation, Article 41 recognises that migrant workers and their families have the right to participate in public affairs, to vote, and to be elected in their State of origin. For what concerns their country of employment however, Article 42 only invites States to take into account the special needs, aspirations, and obligations of migrant workers and members of their families. The possibility for migrant workers and their families to vote in their State of employment is only to be 'envisaged as appropriate'.

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## Convention on the Rights of Persons with Disabilities

**Adopted by the UN General Assembly:** 13 December 2006

**Entered into force:** 3 May 2008

**Status of ratification (as of June 2021):** 182 Parties

The Convention on the Rights of Persons with Disabilities

(CRPD) affirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.

Guiding principles include respect for inherent dignity and individual autonomy, full and effective participation and inclusion in society, equality of opportunity, and accessibility.

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## International Convention for the Protection of All Persons from Enforced Disappearance

**Adopted by the UN General Assembly:** 20 December 2006

**Entered into force:** 23 December 2010

**Status of ratification (as of June 2021):** 63 Parties

The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) asserts that no one shall be subjected to enforced disappearance (Art. 1.1). No exceptional circumstances whatsoever may be invoked as a justification for enforced disappearance (Art. 1.2).

The term 'enforced disappearance' is defined as 'the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law' (Art. 2).

The Convention affirms that the widespread or systematic



practice of enforced disappearance constitutes a crime against humanity (Art. 5). The Convention aims to bring perpetrators to justice, both through criminal law reform and

international cooperation. It also affirms the right of families to know the fate of their disappeared relatives and to obtain justice and reparation.





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## Specific international treaties

International treaties on a range of subjects related to peace, justice and strong institutions help to support SDG 16. Securing greater participation of States with these treaties serves to advance the rule of law.<sup>61</sup> In addition to the human rights conventions noted earlier, other relevant topics include:

- the prohibition on genocide and crimes against humanity
- international humanitarian law; peace agreements
- international courts and tribunals

- conventional and nuclear weapon disarmament
- anti-terrorism measures
- criminal law cooperation
- status of refugees
- reduction of statelessness

By way of example, the following two treaties in the field of international cooperation in criminal law are directly linked with SDG 16 targets.

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## UN Convention against Transnational Organised Crime

**Adopted by the UN General Assembly:** 15 November 2000

**Entered into force:** 29 September 2003

**Status of ratification (as of June 2021):** 190 Parties

This international treaty is the main legal instrument to prevent transnational organised crime<sup>62</sup> and is supplemented by three Palermo Protocols against human trafficking, smuggling of migrants, and firearms trafficking.

States agreed to take a series of measures to fight

transnational organised crime, including the creation of domestic criminal offences against organised criminal groups, money laundering, corruption, and the obstruction of justice. There are further commitments to adopt frameworks addressing extradition, mutual legal assistance, and law enforcement cooperation.

The Conference of the Parties to the Convention reviews its implementation, and helps in identifying emerging forms of transnational organised crimes like cybercrime, illicit financial flows; and terrorism.<sup>63</sup>

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61 See United Nations (2012). *Treaty Handbook prepared by the UN Office of Legal Affairs*. United Nations [online]. Available at: <https://treaties.un.org/doc/source/publications/THB/English.pdf>

62 United Nations Office on Drugs and Crime (2004). *United Nations Convention against Transnational Organized Crime and the Protocols Thereto*. UNODC [online]. Available at: <https://www.unodc.org/documents/treaties/JUNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

63 United Nations Office on Drugs and Crime (2018). *Conference of the Parties to the United Nations Convention against Transnational Organized Crime*. UNODC [online]. Available at: <https://www.unodc.org/unodc/en/treaties/CTOC/CTOC-COP-session9.html>

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## UN Convention against Corruption

**Adopted by the UN General Assembly:** 13 October 2003

**Entered into force:** 14 December 2005

**Status of ratification (as of June 2021):** 187 Parties

The UN Convention against Corruption is the only legally binding universal anti-corruption instrument.<sup>64</sup> According to the UN Office on Drugs and Crime, the Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem.

The Convention is comprised of five main areas:

- i. preventive measures
- ii. criminalisation and law enforcement

- iii. international cooperation asset recovery
- iv. technical assistance
- v. information exchange.

It covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector. A highlight of the Convention is the inclusion of a specific chapter on asset recovery, aimed at returning assets to their rightful owners, including countries from which they had been taken illicitly.

To implement the Convention, States parties have to take measures such as increasing the penalties for corruption offences, introducing the offence of foreign bribery, enhancing the protection of witnesses and victims, and strengthening the capacity of anti-corruption authorities.



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<sup>64</sup> United Nations Office on Drugs and Crime (2004). *United Nations Convention Against Corruption*. [online]. Available at: [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

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## Soft laws and declarations

The previously mentioned binding instruments must also be understood in light of a wide range of relevant human rights

resolutions, declarations, and principles. The following three examples are directly linked with SDG 16.

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### Declaration on the Right to Development

Adopted in 1986 by the UN General Assembly, the Declaration proclaims the right to development to be: ‘an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be realized.’<sup>65</sup> Notwithstanding political and conceptual disagreements, the UN World Conference on Human Rights later recognised the right to development as ‘a universal and inalienable right and an integral part of fundamental human rights.’<sup>66</sup> The right to development strengthens the link between civil and political rights and economic, social and cultural rights, and reinforces a human-rights based approach to development.<sup>67</sup>

In 2000, the Declaration on the UN Millennium Development Goals proclaimed: ‘We are committed to making the right to development a reality for everyone and to freeing the entire human race from want’. In 2015, the Declaration on the SDGs acknowledged that it is informed by the

Right to Development (par. 10). It also builds on a vision of development as a comprehensive economic, social and political process which is grounded in the realisation of the full range of human rights.<sup>68</sup>

Notably, the Declaration mentions the Right to Development in the context of SDG 16-related issues (par. 35):

‘Sustainable development cannot be realized without peace and security; and peace and security will be at risk without sustainable development. The new Agenda recognises the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions. Factors which give rise to violence, insecurity and injustice, such as inequality, corruption, poor governance and illicit financial and arms flows, are addressed in the Agenda.’

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65 UN General Assembly (1986). *Declaration on the Right to Development, Document 41/128*. OHCHR [online]. Available at: [https://www.ohchr.org/Documents/Issues/Development/DeclarationRightDevelopment\\_en.pdf](https://www.ohchr.org/Documents/Issues/Development/DeclarationRightDevelopment_en.pdf)

66 UN World Conference on Human Rights (1993). *Vienna Declaration on Human Rights. Document A/CONF.157/24, Part I, Art. I (10)*. OHCHR [online]. Available at: <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

67 See OHCHR (2016). *Frequently Asked Questions on the Right to Development. Fact Sheet No. 37*. [online]. Available at: [https://www.ohchr.org/Documents/Publications/FSheet37\\_RtD\\_EN.pdf](https://www.ohchr.org/Documents/Publications/FSheet37_RtD_EN.pdf)

68 See OHCHR (2016). *Development is a Human Right. Message from the High Commissioner*. [online]. Available at: <https://www.ohchr.org/EN/Issues/Development/Pages/AnniversaryMessage.aspx>

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## Declaration on the Rule of Law at the National and International Levels

The preamble of this Declaration, adopted in September 2012, presents an ambitious vision for the rule of law, whereby UN members reaffirmed:<sup>69</sup>

‘...Our commitment to the rule of law and its fundamental importance for political dialogue and cooperation among all States and for the further development of the three main pillars upon which the United Nations is built: international peace and security, human rights, and development. We agree that our collective response to the challenges and opportunities arising from the many complex political, social and economic transformations before us must be guided by the rule of law, as it is the foundation of friendly and equitable relations between States and the basis on which just and fair societies are built.’

The Declaration informed the subsequent elaboration of SDG 16, and continues to be a useful reference point for understanding the rule of law within the scope of this goal.<sup>70</sup> The topics addressed include:

- conflict prevention
- democracy
- human rights
- good governance
- judicial systems

- access to justice
- the International Criminal Court
- transitional justice
- stable legal frameworks
- transparency

The Declaration expressly refers to the international development agenda when it affirms ‘the rule of law and development are strongly interrelated and mutually reinforcing. The advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty, and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law’ (para. 7).

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**The Declaration informed the subsequent elaboration of SDG 16, and continues to be a useful reference point for understanding the rule of law within the scope of this goal.**

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69 UN General Assembly (2012). *Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels*. Document A/RES/67/1, Preamble. [online]. Available at: <https://www.un.org/ruleoflaw/files/A-RES-67-1.pdf>

70 See United Nations and the Rule of Law (n.d.). *What is Rule of Law?*. United Nations [online]. Available at: <https://www.un.org/ruleoflaw/>

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## Declaration on Equal Access to Justice for All by 2030

In February 2020, the Task Force on Justice, an initiative of the multi-stakeholder partnership 'Pathfinders for Peaceful, Just and Inclusive Societies', convened a series of meetings in the Hague. Participants were comprised of ministerial representatives from Global North and South countries, as well as international and non-governmental organisations. Participants adopted the 'Declaration on Equal Access to Justice for All by 2030', which outlines a framework for 'moving from justice for the few to justice for all', emphasising the need to:

- i. 'Put people and their legal needs at the centre of justice systems: Understand what people need and want when they seek justice, which obstacles they face and what kind of justice they receive.
- ii. Solve justice problems: Transform justice institutions and services through a broader range of justice providers, to ensure respect for human rights, to respond to unmet

legal needs of billions of people, using high-tech as well as low-tech innovative solutions, based on data, evidence and learning, while taking into account the specificities of the context

- iii. Improve the quality of justice journeys: Empower people to understand, use and shape the law, while offering them fair informal and formal justice processes that meet their needs in terms of both procedures and outcomes.
- iv. Use justice for prevention: Make use of mediation and other methods to prevent disputes from escalating. Address legacies of human rights violations. Invest in justice systems that are trustworthy and legitimate.
- v. Provide people with means to access services and opportunities: Break down legal, administrative and practical barriers that people face to obtain documents, access public services, and participate fully in society and the economy, while promoting gender equality.<sup>71</sup>

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## Organisation for Economic Co-operation and Development

The mission of the Organisation for Economic Co-operation and Development (OECD) is to promote policies that will improve the economic and social well-being of people around the world.<sup>72</sup> Founded in Paris in 1961, it is now comprised of 36 member countries. It provides comprehensive data on a wide variety of topics, including trade and investment. The OECD sets international standards and guidelines on a

the framework of the OECD, including a list of the OECD Members and Non-OECD Members that have adhered to them.<sup>73</sup> A number of documents merit attention in light of SDG 16, including for example, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions which entered into force in February 1999.<sup>74</sup> More recent documents make express reference to

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<sup>71</sup> Justice for All (2019), *The Hague Declaration on Equal Access to Justice for All by 2030*. [online]. Available at: <https://www.justiceforall2030.org/impact/hague-declaration/>

<sup>72</sup> See OECD (n.d.). *About OECD*. [online]. Available at: <http://www.oecd.org/about/>. See also OECD (2018). *Secretary General's Report to Ministers*. [online]. Available at: [https://issuu.com/oecd.publishing/docs/sg\\_s\\_report\\_2018\\_eng\\_interactive\\_f5fb90f7818e58?e=3055080/62301099](https://issuu.com/oecd.publishing/docs/sg_s_report_2018_eng_interactive_f5fb90f7818e58?e=3055080/62301099)

<sup>73</sup> OECD (2020). *Legal Instruments*. OECD [online]. Available at: <https://legalinstruments.oecd.org/en/>

<sup>74</sup> OECD (1999). *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*. [online]. Available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0293>. This effort was reaffirmed in OECD (2016). *Declaration on the Fight Against Foreign Bribery - Towards a New Era of Enforcement*. [online]. Available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0421dfgdfgdf>



the 2030 Agenda for Sustainable Development, for example, the Development Assistance Committee Recommendation on the Humanitarian-Development-Peace Nexus, adopted in February 2019.<sup>75</sup>

More broadly, the OECD is supporting the UN in ensuring the success of the 2030 Agenda for Sustainable Development.<sup>76</sup> It offers significant knowledge and experience, including a strong track record in policy work with developed and

developing countries, in systems for measuring and monitoring performance, and in global partnerships. The OECD has also developed an action plan in support of the Agenda, which includes insights that may inform the realisation of SDG 16.<sup>77</sup>



Ms. Belinda Goldsmith (Fondation Thomson-Reuters), Mr. Arni Pall Arnason (Former Social Affairs and Gender Equality Minister, Iceland), Ms. Danielle Bélanger (Department for Women and Gender Equality, Canada), Mr. Daniele Cangemi (Council of Europe), and Ms. Pilar Vilaplana (Ministry of Equality, Spain) discussing ‘Taking public action to end violence at home’ at the OECD High-Level Conference in February 2020.

<sup>75</sup> OECD (2019). *DAC Recommendation on the Humanitarian-Development-Peace Nexus*. [online]. Available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-5019>

<sup>76</sup> For information on OECD activities in support of the Agenda for Sustainable Development, including links to resources, see OECD (n.d.). *OECD and the Sustainable Development Goals: Delivering on universal goals and targets*. [online]. Available at : <http://www.oecd.org/dac/sustainable-development-goals.htm>

<sup>77</sup> OECD (2016). *Better Policies for 2030: An OECD Action Plan on the Sustainable Development Goals*. [online]. Available at: <http://www.oecd.org/dac/Better%20Policies%20for%202030.pdf>

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## Examples of regional legal and policy frameworks

### Africa

#### The Constitutive Act of the African Union (2002)

The main objective of the Constitutive Act of the African Union is the achievement of peace and security among African countries, along with the enhancement of democracy and sustainable growth.<sup>78</sup> The Act recognises that conflicts within Africa are obstructing the economic development of the continent. Consequently, any threats to peace and security must be dealt as a matter of priority within the African Union (AU). Similar provisions are found in the Protocol for the African Union Peace and Security Council

(AUPSC). If the Assembly maintains that a member State is responsible for or is a victim of war crimes, crimes against humanity or genocide, then the AU has a right to intervene, without awaiting any deliberations from the United Nations.<sup>79</sup>

Articles 3 and 4 emphasise the significance of good governance, popular participation, the rule of law and human rights.

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#### African Charter on Democracy, Elections and Governance (2007)

The ACDEG was adopted in 2007 and entered into force in 2012. Its adoption was based on concerns that unconstitutional changes of governments are a cause of insecurity, instability and violent conflict in Africa. The Charter was seen as a cornerstone to ensuring free, fair and, credible elections. It is also key to the building of democratic institutions and the rule of law, as well as deepening democratic ideals and values on the continent. As of June 2019, 34 of the 55 Member States of the African Union had ratified the Charter.

Ratifying States undertake commitments relating to good governance, participatory democracy, and the organisation and management of public affairs. They commit to holding regular credible and transparent elections managed by independent electoral bodies. The Charter envisages that States will hold each other accountable to ensure compliance through the application of the sanctions provided for in Article 23 of the AU Constitutive Act against States that fail to comply with the AU's principles and policies.

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<sup>78</sup> African Union (n.d.). *The Constitutive Act of the African Union*. [online] Available at: <https://au.int/en/treaties/constitutive-act-african-union>

<sup>79</sup> See generally Winther, D. (2015). *Regional Maintenance of Peace and Security under International Law: The Distorted Mirrors*. Routledge. Pp.67-76



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## Agenda 2063: Strategic framework for the socio-economic transformation of the African continent (2015)

Agenda 2063 is a strategic framework for the socio-economic transformation of Africa over the next five decades. It aims to accelerate the implementation of continental initiatives for growth and sustainable development.

The third and the fourth aspirations of the agenda are directly related to SDG 16:

- Aspiration 3: An Africa of good governance, democracy, respect for human rights, justice, and the rule of law. By 2063, Africa will have undergone a deepening of the culture of good governance, democratic values, gender

equality, respect for human rights, justice and the rule of law.

- Aspiration 4: A peaceful and secure Africa. By 2063, Africa will emerge as a peaceful and secure continent, a conflict-free continent with harmony and understanding among communities at the grassroots level.

The ten-year implementation plan contains target benchmarks for 2023, many of which reflect on the SDG targets.<sup>80</sup>

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## Europe

### European Convention on Human Rights (1953)

The European Convention on Human Rights (ECHR), together with its protocols, ensures the protection of a wide range of civil and political rights, including the right to life, the prohibition of torture, the right to liberty and security, the right to a fair trial, the right to family life, freedom of expression, freedom of thought, conscience and religion, and freedom of assembly and association.<sup>81</sup>

Article 14 provides that ‘the enjoyment of the rights and freedoms set forth in this Convention shall be secured

without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’. Section II of the ECHR establishes the European Court of Human Rights.<sup>82</sup> Ruling on individual and State applications alleging violations of the rights set forth in the Convention and its Protocols, the ECHR has developed an impressive body of case law in the field of human rights.

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<sup>80</sup> African Union, Agenda 2063, First ten-year implementation plan. Available at: [https://au.int/sites/default/files/documents/33126-doc-ten\\_year\\_implementation\\_book.pdf](https://au.int/sites/default/files/documents/33126-doc-ten_year_implementation_book.pdf)

<sup>81</sup> Council of Europe (2010). *European Convention of Human Rights*. ECHR [online]. Available at: [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>82</sup> Information about the European Court of Human Rights, including case law, hearings, statistics, and official texts is available at: European Court of Human Rights (n.d.) Home [online]. Available at: <https://www.echr.coe.int/Pages/home.aspx?p=home>

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## Organisation for Security and Cooperation in Europe

During the early 1970s, the Conference on Security and Co-operation in Europe (CSCE) was created to serve as a multilateral forum for dialogue between East and West. This process led to the negotiation of the Helsinki Final Act, which was signed in 1975.<sup>83</sup> The document contained a number of commitments on politico-military, economic, environmental and human rights issues. It also established ten fundamental principles governing the behaviour of States towards their citizens, as well as towards each other. With the end of the Cold War, the CSCE took on new responsibilities and permanent institutions.

In 1994 the name was changed to the Organisation for Security and Cooperation in Europe (OSCE). It is currently comprised of 57 participating States encompassing more than a billion people across three continents: North America, Europe, and Asia. Many of its activities are relevant to SDG 16, including in the areas of arms control, border management, conflict prevention and resolution, containment of terrorism, reform of the security sector, economic and environmental cooperation, good governance, human rights, elections, media freedom, national minority rights, and rule of law.<sup>84</sup>

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## European Union

The rule of law is one of the values upon which the European Union is founded (Art. 2, Treaty on the European Union). The European Commission, together with other institutions and Member States, is responsible for guaranteeing that the rule of law is respected within the Union.

In recent years, the EU has been confronted with systemic threats to the freedom of press or the independence of the judiciary in some countries of Central and Eastern Europe. To address these risks, the rule of law framework provides for a multi-stage dialogue between the Commission and the concerned Member State.<sup>85</sup> If no solution to prevent or resolve a serious breach of the rule of law is found through

dialogue, then a last resort measure, Article 7 TEU, provides for a sanction mechanism that goes as far as the suspension of this Member State's voting rights in the Council. In December 2017, the Commission triggered the Article 7 procedure for the first time based on the assessment that judicial reforms in Poland threatened judicial independence and constituted a clear risk of breach of the rule of law.<sup>86</sup>

Other mechanisms that contribute to improving national judicial systems include the EU Justice Scoreboard that provides annual data on the independence, effectiveness, and quality of EU Member States' judicial systems.<sup>87</sup> (Footnote on next page)

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83 OSCE (1975). *Conference on security and co-operation in Europe final act*. [online]. Available at: <https://www.osce.org/helsinki-final-act?download=true>

84 See OSCE (n.d.). What is the OSCE?. [online]. Available at: <https://www.osce.org/whatistheosce/factsheet?download=truesdasda>

85 European Commission (2019). *Rule of Law Framework*. [online]. Available at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/effective-justice/rule-law/rule-law-framework\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/effective-justice/rule-law/rule-law-framework_en)

86 European Commission (2017). *Rule of Law: the European Commission acts to defend judicial independence in Poland*. Press Release [online]. Available at: [http://europa.eu/rapid/press-release\\_IP-17-5367\\_en.htm](http://europa.eu/rapid/press-release_IP-17-5367_en.htm)

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## Examples of relevant national legislations

Given the multi-dimensional nature of SDG 16, a wide range of national laws are relevant to advancing its targets. Within any given national jurisdiction, an indicative list may include topics such as equal protection before the law, access to justice, independence of the judiciary, criminal law and procedures, police conduct, prison standards, the fight against organised crime, forced labour and human trafficking, drug trafficking, money laundering, tax avoidance,

bribery and corruption, government transparency and accountability, child protection, freedom of information and freedom of the press, birth, marriage and death registration, national identity, and national human rights institutions.

The following examples highlight some of these topics in a selection of jurisdictions.

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### Argentina – Human Trafficking

#### ***Law No. 26.842 on the Prevention and Sanctioning of Human Trafficking and Assistance to Victims (2012)***

Argentina is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labour.<sup>88</sup>

The main trafficking legislation in Argentina, the Law No. 26.364 from 2008, was amended by Law No. 26.842 in 2012. It defines human trafficking as the ‘offering, recruitment, transportation, transfer or reception of persons for the purpose of exploitation’, namely slavery or servitude, labour services, sexual exploitation, child pornography, forced marriage or organ trafficking (Art 2).<sup>89</sup> In contrast to the

UN Human Trafficking Protocol, ‘coercive means’ are not a requirement for trafficking, but serve as aggravating circumstances (Art 145 ter Criminal Code).<sup>90</sup>

Victims of human trafficking or exploitation have a right to information, a right to receive free psychological and medical assistance, appropriate accommodation, job training, comprehensive legal advice, and effective protection from their traffickers, as well as right to stay in the country (Art 6). The Public Registry of Employers with Labour Sanctions contains the names of employers that have

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87 European Commission (2019). *EU Justice Scoreboard*. [online]. Available at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard_en)

88 United States Department of State (2018). *2018 Trafficking in Persons Report – Argentina*. [online]. Available at: <https://www.refworld.org/docid/5b3e0bb9a.html>

89 Ministerio de Justicia y Derechos Humanos (2012). *Prevencion y Sancion de la Trata de Personas y Asistencia a sus Victimas*, Ley 26.842. [online]. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/205000-209999/206554/norma.htm#fsdgdg>

90 Ministerio de Justicia y Derechos Humanos (1984). *Codigo Penal De La Nacion Argentina*, Ley 11.179 (T.O. 1984 actualizado). [online]. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/texact.htm>

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received sanctions for violating the Anti-Trafficking Law.<sup>91</sup> Employers who are on that list are banned from entering into agreements and contracts with the Federal State or from receiving any benefits from public financial entities.<sup>92</sup> Any goods, including real estate, used to commit a human trafficking offence can be seized and assigned to the victims' assistance programme.<sup>93</sup>

The most recent law on the prevention of trafficking, No. 27.406 from 2015, establishes the obligation to display signs in public places such as airports, public transport, public tourism offices, and border crossings, which read, "The sexual exploitation of children and adolescents and human

trafficking in Argentina is a severely punished crime. Report it." The signs display a free telephone number for receiving complaints about sexual exploitation and trafficking.<sup>94</sup>

Since the adoption of these laws, Argentina reported the highest numbers of prosecution and convictions for trafficking in South America.<sup>95</sup> However, according to the 2018 Trafficking Report of the US Department of State, the number of investigations and convictions in Argentina recently declined and mid- to long-term victim assistance remains inadequate. In particular, official complicity in trafficking crimes has been identified as one of the main obstacles to prosecute trafficking offences.<sup>96</sup>

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## Indonesia – Equal access to justice

### Law No. 16 on Legal Aid (2011)

According to the third amendment of the Indonesian constitution, Indonesia is a State governed by the rule of law. Article 28D (1) of the constitution guarantees that each person has the right for legal certainty and equal treatment before the law.<sup>97</sup> The Indonesian Government has enacted the National Strategy on Access to Justice (NSA2J) in line with

SDG 16.

Law No. 16 of 2011 on Legal Aid States that legal aid must be provided for free to all poor people for criminal, civil and administrative matters.<sup>98</sup> Legal aid services play a key role in helping people, especially from poor and vulnerable groups,

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91 Ministerio de Justicia y Derechos Humanos (2014). *Promoción del Trabajo Registrado y Prevención del Fraude Laboral*. Ley 26.940. [online] Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/230000-234999/230592/norma.htm>

92 Labour Exploitation Accountability Hub (n.d.). Argentina. [online]. Available at: <https://accountabilityhub.org/country/argentina/>.

93 Ibid

94 Ministerio de Justicia y Derechos Humanos (2014). *Prevención de la Trata de Personas*, Ley 27.046. [online]. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/240000-244999/240451/norma.htm>

95 UNODC (2018). *Global Report on Trafficking in Persons 2018*. [online] p. 78. Available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf)

96 United States Department of State (2018). *Trafficking in Persons Report – Argentina*. [online]. Available at: <https://www.refworld.org/docid/5b3e0bb9a.html>

97 Majelis Permusyawaratan Rakyat Sekretariat Jenderal (1945). *The 1945 Constitution of the Republic of Indonesia in One Script*. [online]. Available at: <https://www.bappenas.go.id/files/pendanaan/regulasi/uud-1945-perubahan-iiiiv.pdf>

98 The University of Melbourne (2019). *Why legal aid is not working in Indonesia*. [online]. Available at: <https://indonesiaatmelbourne.unimelb.edu.au/why-legal-aid-is-not-working-in-indonesia/>

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to obtain their constitutional rights. Unlike other countries, where a single government-funded body coordinates and provides legal aid, the Indonesian government accredits existing civil society legal aid organisations and then reimburses them for any free legal assistance provided.<sup>99</sup>

However, there is a huge gap between legal needs and the resources available. For the period from 2019 to 2021, Rp 53 billion (almost £3 million) have been allocated to the 524 accredited legal aid organisations. With these funds, on average only six cases per organisation per year can be reimbursed, while the Jakarta Legal Aid Institute receives more than 1,000 cases per year. Additionally, pro bono work is not commonly undertaken in Indonesia.<sup>100</sup>

Overall, Indonesia scored 69.6 out of 100 in the index of access to justice in 2019.<sup>101</sup> Although access to justice is guaranteed by the constitution, insufficient funding of the national legal aid system, unequal distribution of the legal aid organisations, the poor quality of legal aid services and the lack of awareness of the community prevent effective access to equal justice for all. For this reason, in 2018, Indonesia committed to creating regulations that would guarantee funding for legal aid organisations. It should allow them to expand their reach to more remote and impoverished communities while simultaneously strengthening the awareness and legal capacity of individuals who are poor and marginalised.<sup>102</sup>

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## Italy – Illicit financial flows and cryptocurrencies

As the use of blockchain technology and cryptocurrency in the global financial system increases, financial authorities are making attempts to regulate virtual currency exchanges. One of those regulations is the 4th EU Directive on the prevention of use of the financial system for the purposes of money laundering or terrorist financing from May 2015. In Italy, a 2017 Legislative Decree transposed this EU Directive into national law. The Decree makes regulations related to money laundering applying to traditional money exchange operators applicable to cryptocurrency service providers. Accordingly, cryptocurrency exchanges are now subject to

anti-money laundering regulations.

The decree requires cryptocurrency service providers to have know-your-customer procedures, to adequately monitor and report suspicious transactions and to conduct due diligence.<sup>103</sup>

Although more comprehensive legislation relating to cryptocurrencies is to follow, this decree is notable for recognising the risk that cryptocurrencies can be used for money laundering purposes, and for proactively building a

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99 Ibid

100 Ibid

101 Civil Society Consortium for The Index of Access to Justice (2020). *Index of Access to Justice in Indonesia in 2019*. Executive Summary [online]. Available at: <http://ijrs.or.id/wp-content/uploads/2020/04/A2J-2019-Book-English.pdf>

102 Open Government Partnership (2019). *Improvements to Legal Aid (ID0105)*. [online]. Available at: <https://www.opengovpartnership.org/members/indonesia/commitments/ID0105/>

103 Gazzetta Ufficiale (2019). *Decreto Legislativo 25 maggio 2017, n. 90*. [online]. Available at: [www.gazzettaufficiale.it/eli/id/2017/06/19/17G00104/sg](http://www.gazzettaufficiale.it/eli/id/2017/06/19/17G00104/sg)

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legislative framework to address such a risk.

In October 2019, Legislative Decree No. 125 transposed the 5th EU Anti-Money Laundering Directive (Directive 2018/843) into Italian law.<sup>104</sup> Among other changes, this Legislative Decree (i) broadens the scope of the service providers that

are subject to the regulations; (ii) facilitates exchanges of information between national authorities and (iii) improves safeguards on transactions involving high-risk third countries.<sup>105</sup>

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## Rwanda – Anti-Corruption

### Law N. 54/2018 on Fighting Against Corruption

Throughout the last decade, Rwanda has made a huge progress in its fight against corruption, by enacting laws covering anti-corruption, whistle-blower protection, asset recovery, money laundering and terrorism financing.<sup>106</sup> Within 10 years, Rwanda managed to improve its ranking in the Transparency International's Corruption Perceptions Index from 89 to 51 in 2019.<sup>107</sup>

The most recent Rwandan Anti-Corruption Law is N. 54/2018 on Fighting Against Corruption, which expanded the definition of corruption to include bribery, sexual corruption, embezzlement, making decisions based on favouritism, friendship or hatred, influence peddling, illicit enrichment, use of public property for unintended purposes, abuse of

power, and demanding or receiving undue or excessive money (Art 2 (2)).<sup>108</sup> The law also toughens the applicable criminal sanctions.<sup>109</sup> The lowest sanction is 5 to 7 years imprisonment together with a fine of 3 to 5 times the value of the illegal benefit. The highest sanction is 10 to 12 years imprisonment accompanied by a fine. Certain types of corruption, for example soliciting or offering sexual favours or using public property for unintended purposes, have fixed fines ranging between one million and five million Rwandan francs (\$1,000 to \$5,000).

The law includes a provision to encourage reporting corruption, by exempting from criminal liability a person who gives or receives an illegal benefit if they inform law

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104 Gazzetta Ufficiale (2019). *Decreto Legislativo 4 ottobre 2019, n. 125*. [online]. Available at: [https://www.gazzettaufficiale.it/atto/serie\\_generale/caricaDettaglioAtto/originario?atto\\_dataPubblicazioneGazzetta=2019-10-26&atto.codiceRedazionale=19G00131&elenco30giorni=true](https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto_dataPubblicazioneGazzetta=2019-10-26&atto.codiceRedazionale=19G00131&elenco30giorni=true)

105 Linklaters (2020). *Italy: What happened in 2019 and significant events in 2020*. [online]. Available at: <https://www.linklaters.com/en/insights/publications/year-review-year-to-come/2019-2020/major-developments-in-italian-law-in-2019-and-2020>

106 Bizimana, P. (2019). *An Africa success story: Anti-corruption efforts in Rwanda produce results*. FCPA Blog [online]. Available at: <https://fcpcblogger.com/2019/03/13/an-africa-success-story-anti-corruption-efforts-in-rwanda-pr/>

107 Transparency International (2019). *Corruption Perceptions Index 2009*. [online]. Available at: <https://www.transparency.org/en/cpi/2019/results/rwa>

108 Republic of Rwanda (2018). *Law on fighting against corruption. Official Gazette no. Special of 20/09/2018* [online]. Available at: [https://www.rlrc.gov.rw/fileadmin/user\\_upload/Laws2/%5BHOME%5DMOST%20RECENT%20LAWS/New%20Law%20fighting%20against%20Corruption%20%282018%29.pdf](https://www.rlrc.gov.rw/fileadmin/user_upload/Laws2/%5BHOME%5DMOST%20RECENT%20LAWS/New%20Law%20fighting%20against%20Corruption%20%282018%29.pdf)

109 Nkusi, F. (2018). *What's new in the new anti-corruption law?*. The New Times [online]. Available at: <https://www.newtimes.co.rw/opinions/whats-new-new-anti-corruption-law>



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enforcement bodies before the occurrence of the act (Art 19).

Another highlight is Article 21, stating that corruption offenses in Rwanda are “imprescriptible”, meaning that they are not subject to any statute of limitations and no amount of time can erase a case of corruption.

Public and private institutions, civil society members, and international organisations operating in Rwanda are required to implement mechanisms for the prevention of corruption (Art 3). The Office of the Ombudsman has the power to request administrative sanctions against the leader of an organisation that fails to comply with Rwanda’s corruption prevention measures.<sup>110</sup> According to a 2018-2019 report

of the ombudsman in charge of preventing and fighting corruption, corruption cases had a conviction rate of above 80 percent.

Additionally, to reduce the possibility of bribing government employees, Rwanda has developed government services online.<sup>111</sup>

Rwanda’s political will to enforce anti-corruption laws make it the least corrupted country in East and Central Africa and the fourth least corrupt country on the whole continent, behind Seychelles, Botswana, and Cabo Verde.<sup>112</sup>

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## Kenya – Participative decision-making

### *Public Participation Act (2018)*

In 2010, Kenya enacted a new constitution, transforming the central government to a devolved one at the national and county level.<sup>113</sup> With this change, Art 10 (2) (a) of the constitution declares ‘democracy and participation of the people’ as one of the national values and principles of governance.<sup>114</sup> Throughout the constitution, public

participation is encouraged and facilitated.<sup>115</sup> Subsequent legislation, like the County Governments Act, the Public Finance Management Act, the Transition to Devolved Government Act, and the Urban Areas and Cities Act are all guided by principles of transparency, accountability and participation.<sup>116</sup> Other laws have been declared invalid by

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110 Bizimana, P. (2019). *An Africa success story: Anti-corruption efforts in Rwanda produce results*. FCPA Blog [online]. Available at: <https://fcpablog.com/2019/03/13/an-africa-success-story-anti-corruption-efforts-in-rwanda-pr/>

111 Gashumba, J. and Tianran, L. (2019). *What makes Rwanda one of the least corrupted countries in Africa?* Xinhua [online]. Available at: [http://www.xinhuanet.com/english/2019-12/10/c\\_138621002.htm](http://www.xinhuanet.com/english/2019-12/10/c_138621002.htm)

112 Transparency International (2019). *Corruption Perceptions Index 2019*. [online]. Available at: <https://www.transparency.org/en/cpi/2019/results/table>

113 Mariru, P. (2015). *What About Public Participation? Where are we?* International Institute for Legislative Affairs [online]. Available at: <https://ilakenya.org/what-about-public-participation-where-are-we/>

114 Constitution of Kenya (2010). *Laws of Kenya*. [online]. Available at: <https://www.wipo.int/edocs/lexdocs/laws/en/ke/ke019en.pdf>

115 See for example Art 69 (1) (d) in environmental matters, Art 118 (1) (b) in legislative matters, Art 174 (c) in the matters of devolved government, Art 184 (1) (c) in urban matters, or Art 201 (a) in public financial matters

116 Kenya School of Government (2015). *Kenya Devolution: Basic Requirements for Public Participation in Kenya’s Legal Framework*. [online] Working Paper 2. Available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/21664/94498.pdf?sequence=1&isAllowed=y>

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the Constitutional Court for lack of public participation, showing how crucial public participation is as a constitutional principle.<sup>117</sup>

The Public Participation Bill 2016 was introduced to provide a general framework for effective public participation. In 2018, Kenya enacted a new Public Participation Act to ‘enhance, promote and facilitate public participation in governance processes’ (Art 3). Art 4 lists the principles for public participation, including that the public, communities and organisations to be affected by a decision shall have a right to be consulted and involved in the decision-making process or that public views shall be taken into consideration in decision making. State entities, like the Parliament, the

Judiciary, or Government ministries, are mandated to issue general guidelines for public participation (Art 5). Finally, every authority has to prepare an annual report that includes a description of the activities and outcomes of public participation and of any complaints made in respect of public participation (Art 8).<sup>118</sup>

A 2018 case study of public participation in Kisumu county by Transparency International Kenya found that decentralisation had improved public participation, and that ward administrators play an important role in linking citizens to various county activities. Citizens were invited to forums through the county notice boards, newspapers, word of mouth, radio, website as well as formal invitations.<sup>119</sup>

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## Afghanistan: Access to information

### Access to Information Law (2018)

In Afghanistan, a law regarding public access to information law was adopted in May 2018.<sup>120</sup> The same year, the Centre for Law and Democracy, an NGO that aims to promote human rights globally, announced that Afghanistan provided the strongest legal framework for the right to access information in the world, and still does according to its Global Right to Information Ranking.<sup>121</sup>

The right of access to information is enshrined in the Afghan constitution, nominally endowing the right with considerable legal protection (Art 50 of the Constitution). Furthermore, the law can be invoked by all legal or natural persons, allowing non-citizens to make use of it. The definition of “information” is similarly wide, encompassing written, audio, visual, sample or model information. The requesting procedures are also

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117 MWC Legal (2019). *Public Participation and the Public Participation Bill*. [online]. Available at: <https://mwc.legal/public-participation-and-the-public-participation-bill/>

118 Republic of Kenya (2018). *Public Participation Act*. Kenya Gazette Supplement No. 17 (Senate Bills No. 4). Available at: [http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2018/PublicParticipationBill\\_2018.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2018/PublicParticipationBill_2018.pdf)

119 Transparency International Kenya (2018). *A Case study of public participation frameworks and processes in Kisumu County*. [online] p. 37. Available at: <https://tikenya.org/wp-content/uploads/2018/08/Public-Participation-Frameworks-Kisumu-County.pdf>

120 Islamic Republic of Afghanistan (2019). *Access to Information Law*. [online]. Available at: [https://www.rti-rating.org/wp-content/uploads/2020/01/Afghan.RTI\\_Decree.May18\\_Amend\\_Oct19.pdf](https://www.rti-rating.org/wp-content/uploads/2020/01/Afghan.RTI_Decree.May18_Amend_Oct19.pdf)

121 Global Right to Information Rating (2020). *Country Rating Results*. [online]. Available at: <https://www.rti-rating.org>

user friendly. Requesters do not have to provide reasons for their request. Furthermore, a public official, the Public Information Officer, is available and even mandated to assist requesters in the process. Lastly, institutions are required to respond to requests within 10 working days.<sup>122</sup>

However, although Afghanistan's right to access information legislation is robust, other factors within the country impede the law's efficacy. For example, journalists within the country complain that their access to information requests are either ignored or complied with late. They attribute this outcome to government personnel's unawareness of the law, or their reluctance to turn over potentially incriminating

information.<sup>123</sup> Moreover, widespread violence and terrorist attacks as well as constant abuse from warlords and corrupt officials constitute a permanent threat for journalists and the freedom of information in Afghanistan. This shows that, although the law has been rated as the best piece of legislation in regard to access information, it has not been fully implemented in practice and hence, has not yet effectively improved public access to information in Afghanistan.

Note: This chapter was published in June 2021 and the picture below is from US Army archives, taken before the events of August 2021.



122 Global Right to Information Rating (2020). *Afghanistan*. [online]. Available at: <https://www.rti-rating.org/country-data/Afghanistan/>

123 Amnesty International (2020). *Afghanistan: Implement Access to Justice Law*. [online]. Available at: <https://www.amnesty.org/en/latest/news/2020/02/afghanistan-implement-access-to-information-law/>

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# Insights for the Legal Profession

## a) Examples of Relevant Cases and Legal Proceedings

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### United Kingdom: Human Trafficking

#### Equality and Human Rights Commission Intervening in R v L, HVN, THN and T [2013] EWCA Crim 991

Within the United Kingdom, the Equality and Human Rights Commission is the national equality body for Great Britain. The Commission intervened in an appeal in 2013 against the conviction of T, a 14-year-old Vietnamese boy, who was forced to work in a cannabis factory after being trafficked to England in the back of a refrigerated lorry.<sup>124</sup> T was sentenced to two years detention for the offence of cultivating cannabis.<sup>125</sup> The Commission submitted that Article 4 ECHR and international treaties required that child victims of trafficking should be given support, assistance and protection, and not further victimised by being prosecuted.

The Court of Appeal scrubbed T's conviction and those of three other trafficking victims, whose cases were heard together. The Court accepted the Commission's submission that there is a heavy onus on the authorities to thoroughly investigate trafficking allegations so that unnecessary prosecutions do not occur. Its judgment further reflected the Commission's arguments that the court has the power to stay prosecution proceedings where it had not been presented

with enough evidence about the age of the defendant and whether they have been a victim of trafficking.<sup>126</sup>



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<sup>124</sup> Equality and Human Rights Commission (2016). *Human rights legal cases. 10. R v (1) L (2) HVN (3) THN (4) T*. [online]. Available at: <https://www.equalityhumanrights.com/en/legal-casework/human-rights-legal-cases>

<sup>125</sup> Royal Courts of Justice (2013). *Court of Appeal, Criminal Division, case 991*. [online] para 46. Available at: <https://www.refworld.org/pdfid/52fe3f2a4.pdf>

<sup>126</sup> Equality and Human Rights Commission (2016). *Human rights legal cases. 10. R v (1) L (2) HVN (3) THN (4) T*. [online]. Available at: <https://www.equalityhumanrights.com/en/legal-casework/human-rights-legal-cases>

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## India: Anti-Corruption

### Central Bureau of Investigation v. Gelli (23 February 2016), India Supreme Court

In 2004, the private sector bank Global Trust Bank (GTB) merged with the public sector bank Oriental Bank of Commerce. Following the merger, the Central Bureau of Investigation started to investigate two executives of GTB who were accused of share price manipulation.. Subsequently the GTB executives were charged with criminal misconduct as public servants under of India's Prevention of Corruption Act, (POCA) 1988.<sup>127</sup>

According to this Act, any public servant commits criminal misconduct if they obtain any valuable thing or monetary advantage by corrupt or illegal means or by abusing their position as a public servant. The Act defines a 'public servant' as any person who holds an office by virtue of which he is authorised or required to perform any public duty. 'Public duty' is defined as a duty in the discharge of which the State, the public or the community at large has an interest.<sup>128</sup> Lower courts dismissed the charges on the grounds that the POCA only applies to public employees, and the accused were private bank employees.

However, the Supreme Court of India reversed the judgement based on the consideration that a private banking company falls under the definition of a "public servant" as defined in

the POCA.<sup>129</sup>

Up until this decision, the POCA was only used to prosecute government officials who had been engaging in corrupt acts. Yet, the Supreme Court of India established that employees of private banks are also "public servants" and, thus, can be prosecuted for bribery and corruption under the POCA.<sup>130</sup> This landmark judgement has major impacts on companies doing business in India's financial sector, as employees of both domestic and foreign private banks might be deemed as public servants under the POCA. Without having commercial bribery as a substantive offence in India, this judgement enables the prosecution of corruption in the context of private banking.<sup>131</sup>

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**Supreme Court of India reversed the judgement based on the consideration that a private banking company falls under the definition of a "public servant" as defined in the POCA.**

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<sup>127</sup> Alliance for Integrity (n.d.) *Recent Supreme Court Decisions and the Indian Prevention of Corruption Act*. Alliance for Integrity, [online] Compliance Bulletin 05. Available at: [https://www.allianceforintegrity.org/wAssets/docs/publications/Compliance-Bulletin/Afln\\_ComplianceBulletin\\_05.pdf](https://www.allianceforintegrity.org/wAssets/docs/publications/Compliance-Bulletin/Afln_ComplianceBulletin_05.pdf)

<sup>128</sup> OECD (1988). *India: The Prevention of Corruption Act, 1988*. [online]. Available at: <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46814376.pdf>

<sup>129</sup> Jaeger, J. (2016). *Indian Supreme Court ruling expands FCPA coverage*. [online] Compliance Week. Available at: <https://www.complianceweek.com/indian-supreme-court-ruling-expands-fcpa-coverage/3072.article>

<sup>130</sup> Ibid

<sup>131</sup> Alliance for Integrity (n.d.) *Recent Supreme Court Decisions and the Indian Prevention of Corruption Act*. Alliance for Integrity, [online] Compliance Bulletin 05. Available at: [https://www.allianceforintegrity.org/wAssets/docs/publications/Compliance-Bulletin/Afln\\_ComplianceBulletin\\_05.pdf](https://www.allianceforintegrity.org/wAssets/docs/publications/Compliance-Bulletin/Afln_ComplianceBulletin_05.pdf)



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## Dominican Republic: Right to legal identity

### Inter-American Court of Human Rights Case of The Yean and Bosico Children v. The Dominican Republic (September 8, 2005)

In 2003, the Inter-American Commission on Human Rights brought forward a complaint against the Dominican Republic for failing to issue birth certificates to Dilcia Yean and Violeta Bosico, two girls of Haitian descent. Despite national laws that grant citizenship for individuals born within the territory, these girls were denied their documents.

About 2.5% of the population in the Dominican Republic are people of Haitian descent, which makes them the largest ethnic minority in the country. They have experienced a history of discrimination and marginalisation ever since the Dominican Republic gained its independence from Haiti in 1844. The differences in language, culture, and political history have led to violent clashes, including a massacre in 1937 which resulted in the killing of 10,000 to 25,000 Haitians in border areas.<sup>132</sup>

In this case, the mothers of the two girls were Dominican nationals, and their fathers were Haitian migrant workers. The civil registry officers found that they did not provide sufficient documentation for late registration and denied their request of Dominican nationality. There was no mechanism for applicants to make appeals, leaving the girls without options.

The Commission argued that the registry office authorities of the Dominican Republic perpetrated discrimination by not issuing birth certificates, which ultimately left the children Stateless.<sup>133</sup> As a result of this lack of national identity, the children were unable to access public services, such as education, and they were vulnerable to the threat of deportation.

The Court found that denying documentation to these children violated their right to protection, to equality, to non-discrimination as well as their right to be part of the political community. Along with its decision on this case, the Court requested that the Dominican State should grant free elementary education to all children regardless of documentation or citizenship.<sup>134</sup> The Court also ruled that the Dominican State had to adopt a simple, accessible and reasonable procedure to acquire nationality, to provide reparations to the children as well as to issue public apologies.<sup>135</sup>

To this day, the Dominican Republic continues to present issues of discrimination against Dominicans of Haitian descent. Haitians finding seasonal employment as migrant

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132 Gibson, C. (2013). The Dominican Republic and Haiti: one island riven by an unresolved past. [online] The Guardian. Available at: <https://www.theguardian.com/commentisfree/2013/oct/07/dominican-republic-haiti-long-history-conflict>

133 Wodding, B. (2018). Haitian Immigrants and Their Descendants Born in the Dominican Republic. [online] Available at: <https://oxfordre.com/latinamericanhistory/view/10.1093/acrefore/9780199366439.001.0001/acrefore-9780199366439-e-474>

134 Minority Rights Group (2005). Jean and Bosico Children v. The Dominican Republic. [online]. Available at: <https://minorityrights.org/law-and-legal-cases/jean-and-bosico-children-v-the-dominican-republic/>

135 Minority Rights Group (2005). The Yean And Bosico Children v. The Dominican Republic (2005). Inter-American Court of Human Rights. [online] Orders. Available at: <https://minorityrights.org/wp-content/uploads/old-site-downloads/download-228-Case-of-the-Yean-and-Bosico-Children-v.-The-Dominican-Republic.pdf>



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workers have become subjected to discrimination and hatred. This case is often referenced in present claims as a precedent and a foundation for the right to identity.

In 2008, a court case was filed by a Dominican of Haitian descent because the civil registry refused to issue her national ID Card. The case ultimately reached the Constitutional Court, which ruled in 2013 that the woman should have never been a citizen in the first place because her parents did not have enough documentation to prove legal residency.<sup>136</sup> The Court decided that immigrants with irregular migration status should not have been able to document their children, even though they were born in the

country. The judgement applied retroactively to anyone born between 1929 and 2007, and thus stripped tens of thousands of people, especially Dominicans of Haitian descent, of their citizen rights and made them Stateless. However, in 2014 the Dominican authorities decided that those whose documents were suspended should be restored, and those who had never been registered but had that right under the Constitution when they were born should be allowed to register as foreigners and could opt to naturalise as citizens after two years.<sup>137</sup> These decisions illustrate the precarious status of Dominicans of Haitian descent and the continued discriminations related to the lack of legal identity.

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## Hungary: Access to information

### European Court of Human Rights, Magyar Helsinki Bizottság v. Hungary (8 November 2016)

The applicant, Magyar Helsinki Bizottság, was a Hungarian NGO active in the field of monitoring the implementation of international human rights instruments in Hungary. It had requested from a number of police departments the names of public defenders appointed in their area and the number of cases that had been assigned to each of them. The request was based on Hungary's 1992 Data Act, which contained a provision on access to information, and was justified by the

NGO's investigation into the quality of defence work done by public defenders. Two of the police stations refused to provide the information, and the NGO's appeal was rejected by the Supreme Court which considered the activities of the public defenders a private activity, resulting in their names not being subject to disclosure under the Data Act.<sup>138</sup>

The NGO claimed that the court's refusal to order the

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136 Katz, J. (2016). In Exile. The New York Times [online]. Available at: <https://www.nytimes.com/2016/01/17/magazine/haitians-in-exile-in-the-dominican-republic.html>

137 Alami, A. (2018). Between Hate, Hope and Help: Haitians in the Dominican Republic. [online] The New York Review of Books. Available at: <https://www.nybooks.com/daily/2018/08/13/between-hope-hate-help-haitians-in-the-dominican-republic/>

138 McCully, J. and Reventlow, N. (2016). The European Court of Human Rights and Access to Information: Clarifying the Status, with Room for Improvement. [online] Media Legal Defence Initiative. Available at: <https://www.media defence.org/news/european-court-human-rights-and-access-information-clarifying-status-room-improvement>

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disclosure of the information amounted to a breach of its right to access to information under Art 10 ECHR.<sup>139</sup>

The judgement made on 8 November 2016 in the Grand Chamber of the ECHR was much anticipated since the Court never acknowledged that Art 10 comprises a self-standing right to access information. Despite hopes that the ECHR would follow the Inter-American Court and the UN Human Rights Committee, the Grand Chamber chose not to recognise a full-fledged right to access information under this article.<sup>140</sup>

This decision was based on the wording of Art 10 itself, as it does not include an explicit reference to the freedom to “seek” information. The Court also relied on its previous case law, which stated that Art 10 could only be relied on in cases where the State prevented an individual from accessing information that another person was willing or required to disclose. The Court therefore concluded that Art 10 did not confer a positive obligation on States to collect and disseminate information of its own motion.<sup>141</sup>

However, the Grand Chamber decided that the right to access information held by a public authority may arise under Art 10, in two cases: 1) When disclosure of the information has been imposed by an enforceable judicial order, and 2) in circumstances where access to the information is instrumental for the individual’s exercise of their right to freedom of expression, in particular “the freedom to receive

and impart information” and where its denial constitutes an interference with that right.<sup>142</sup>

The Court also described four principles to decide whether and to what extent the denial of access to information constitutes an interference with an applicant’s freedom of expression rights: 1) The purpose of the information request has to be sought for the exercise of the right to freedom of expression; 2) The nature of the information sought must be of public interest; 3) The role of the applicant has to be that of a “public watchdog” by seeking the information to inform the public; and 4) The information sought has to be ready and available.<sup>143</sup> This decision, although not going as far as other regional and international bodies, can be seen as a step in the right direction.

In the present case, the four principles had been met. The information sought by the NGO from the police departments was necessary for the completion of the survey on the functioning of the public defenders’ scheme. The survey was being conducted by it in its capacity as a non-governmental human rights organisation, in order to contribute to discussion on an issue of obvious public interest. By denying it access to the requested information, which was ready and available, the domestic authorities impaired the NGO’s exercise of its freedom to receive and impart information under Art 10.<sup>144</sup>

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139 Case of Magyar Helsinki Bizottság v. Hungary [2016]. European Courts of Human Rights, Grand Chamber. [online] Procedure. Available at: [https://hudoc.echr.coe.int/eng#{\"itemid\":\[\"001-167828\"\]}](https://hudoc.echr.coe.int/eng#{\)

140 McCully, J. and Reventlow, N. (2016). The European Court of Human Rights and Access to Information: Clarifying the Status, with Room for Improvement. [online] Media Legal Defence Initiative. Available at: <https://www.mediadefence.org/news/european-court-human-rights-and-access-information-clarifying-status-room-improvement>

141 Ibid

142 European Courts of Human Rights (2016). Case of Magyar Helsinki Bizottság v. Hungary [2016]. [online] para 156. Available at: [https://hudoc.echr.coe.int/eng#{\"itemid\":\[\"001-167828\"\]}](https://hudoc.echr.coe.int/eng#{\)

143 Ibid

144 Ibid

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## b) Legal context and challenges

Out of all the SDGs, Goal 16 is most closely linked with the adoption and strengthening of legal frameworks, and the importance of legal and judicial practice. It is clear that to achieve SDG 16, effective and accountable institutions must include: solid legal frameworks, in accordance with national and international standards; representative parliaments, with a robust capacity for oversight; competent, independent, and impartial judiciary; efficient public services; thriving civil

societies; and a free and independent media.

These institutions are therefore key to understanding how power is and should be managed and used within the State, and the relationship between the State and society.<sup>145</sup> This section further highlights some of the specific challenges associated with engaging with such institutions to continue progress towards achieving SDG 16.

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### Role of SDG 16 in the achievement of all Goals

It is increasingly clear that Goal 16 has a wider relevance to all the SDGs, grounded in the conviction that peace, justice, and inclusion are essential to development and must be integrated throughout the 2030 Agenda. This creates both challenges and opportunities for the legal profession. Two organisations provide clarity on potential approaches.

Pathfinders for Peaceful, Just and Inclusive Societies.<sup>146</sup> has developed a roadmap in collaboration with a range of States, global partnerships, and international organisations to deliver on the 2030 Agenda commitments. The roadmap proposes three cross-cutting strategies:

- Investing in prevention so that all societies and people reach their full potential.
- Transforming institutions so that they can meet

aspirations for a more prosperous, inclusive and sustainable future.

- Including and empowering people so that they can fulfil their potential to work for a better future.

The roadmap also sets out nine actions in the following areas: violence against women; children and vulnerable groups; building safer cities; prevention for the most vulnerable countries; access to justice; legal identity; tackling corruption and illicit flows; open government; empowering people as agents of change; respecting rights; and promoting gender equality.

Reinforcing this approach, the Global Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies has focused on progress towards SDG 16 as a way to ensure that progress

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<sup>145</sup> Organisation for Economic Co-operation and Development (2015). Building more effective, accountable, and inclusive institutions for all. [online]. Available at: <https://www.oecd.org/dac/POST-2015%20effective%20and%20accountable%20institutions.pdf>

<sup>146</sup> Pathfinders for Peaceful, Just and Inclusive Societies (2017). The Roadmap for Peaceful, Just and Inclusive Societies – A Call to Action to Change our World. New York: Center on International Cooperation [online]. Available at: [https://cic.nyu.edu/sites/default/files/sdg16\\_roadmap\\_en\\_20sep17.pdf](https://cic.nyu.edu/sites/default/files/sdg16_roadmap_en_20sep17.pdf)

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is also made towards every other goal.<sup>147</sup> The Global Alliance highlights that issues related to peace, justice, and inclusion are found throughout the 2030 Agenda, within 36 targets and 8 separate SDGs, observing that:

‘SDG 16 entails specific actions to address issues such as illicit financial flows, pretrial detention, violence against women, access to small arms and light weapons, and human trafficking. But fundamentally, it is about ensuring effective governance: that government institutions can provide the goods and services that citizens need to contribute to the shared wealth of their society; that citizens can shape the vision of the society in which they live; and that citizens from

diverse communities can relate to one another as equals with a shared responsibility for co-creating a social structure in which all can thrive. “Effective, accountable, and inclusive institutions”...is therefore as relevant to providing ‘access to justice’ (SDG 16) as it is to poverty reduction (SDG 1), quality education (SDG 4), gender equality (SDG 5), clean water and sanitation (SDG 6), economic growth (SDG 8), infrastructural improvements (SDG 9), climate change adaptation (SDG 13) and biodiversity conservation (SDGs 14 and 15). This is because achieving each SDG requires that institutions are able to deliver relevant goods and services: that they have the right institutional resources, policy development processes, and data management capacities to do be able to do so.’

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## Obstacles to the rule of law

The UN Report on progress towards SDG 16 States that ‘realising the goal of peaceful, just and inclusive societies is still a long way off’,<sup>148</sup> and the experience of lawyers around the world confirms this assertion. Notably, the World Justice Project has undertaken an in-depth country-by-country research project to develop an annual *WJP Rule of Law Index*.<sup>149</sup> Its latest analysis shows that for a second year in a row more countries have declined rather than improved in overall rule of law performance, continuing a negative slide towards weaker rule of law around the world.

Legal and judicial professionals should also be aware that advocacy for the rule of law can be controversial, given that it goes to the core of power relationships within societies. Indeed, reference to the rule of law within the proposed development agenda has provoked debate among UN Member States. A range of groups, such as the International Development Law Organisation (IDLO), Namati, and the Africa Justice Foundation, had to argue for the legal and practical importance of including this principle.<sup>150</sup>

Challenges to the rule of law are constantly evolving. The

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147 UNDP (n.d.). The Global Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies. [online]. Available at: <http://www.undp.org/content/dam/norway/undp-ogc/documents/Global%20Alliance.pdf>

148 United Nations (2019). The Sustainable Development Goals Report 2019. [online] p. 54. Available at: <https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf>

149 Featuring primary data, the WJP Rule of Law Index measures countries’ rule of law performance across eight factors: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice. For the 2019 edition access: World Justice Project (2019). Rule of Law Index 2019. [online]. Available at: [https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced_0.pdf)

150 See generally Bunn, I. (2015). Making the Case: Rule of Law in the Emerging Development Agenda. *Southwestern Journal of International Law* Volume XXII. This symposium collection of articles, which originated in the World Bank’s Law, Justice and Development Forum, provides references to a variety of sources

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rise of technological developments has expanded the surveillance abilities of States and infringed on the right to privacy. Following the COVID-19 outbreak, measures taken by governments around the world to limit the expansion of the pandemic have had significant consequences for the functioning of States, including the operation of courts and parliaments, and impacts for human rights and freedoms.

SDG 16 may help embed rule of law considerations into national development policies. The SDG Agenda can also serve to strengthen the connections between the rule of law and the pursuit of peace and development. The US Institute of Peace, for example, has published a practical guide on building a rule of law culture and also hosts the International Network to Promote the Rule of Law (INPROL).<sup>151</sup> This network of rule of law practitioners and experts facilitates information-sharing and responds to the immediate needs of

officials in the field. SDG 16 also encourages an examination of the linkages between the rule of law and problems such as the corrosive impact of corruption. According to the UN Development Programme:

Corruption undermines human development. It diverts public resources away from the provision of essential services. It increases inequality and hinders national and local economic development by distorting markets for goods and services. It corrodes rule of law and destroys public trust in governments and leaders. The Sustainable Development Goals (SDGs) now make an explicit link between corruption and peaceful, just and inclusive societies. SDG 16 and its targets on reducing bribery, strengthening institutions and accessing information are not only valuable aspirations in their own right, they are also vital conditions for the achievement of all the 17 goals.<sup>152</sup>

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## Traditional justice systems

A common misconception in the legal community, especially in the Global North, is to reduce justice systems to formal justice procedures. However, it is crucial to recognise that informal justice systems often exist parallel to statutory legal systems, providing justice and dispute resolution where formal options are insufficient or unavailable.

Traditional justice systems should not be romanticised as they have their own weaknesses and shortcomings. They can

raise important concerns relating to procedural safeguards around evidence gathering, due process, lack of appeal, etc. Moreover, the norms they enforce can be arbitrary or discriminatory, especially against women or marginalised communities.

However, because they often are more affordable, more accessible geographically and more accepted culturally, informal justice systems are particularly common in low-

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<sup>151</sup> US Institute of Peace (2015). *Toward a Rule of Law Culture: A Practical Guide*. [online]. Available at: [https://www.usip.org/sites/default/files/Toward-a-Rule-of-Law-Culture\\_Practical-Guide\\_0.pdf](https://www.usip.org/sites/default/files/Toward-a-Rule-of-Law-Culture_Practical-Guide_0.pdf). See also International Network to Promote the Rule of Law (n.d.). Inprol. Available at: <http://www.inprol.org>

<sup>152</sup> UN Development Programme (n.d.). *Anti-corruption for Development*. [online]. Available at: <http://www.anti-corruption.org/themes/anti-corruption-in-sdgs-2/>. See also the work of Transparency International, including on international conventions, accountability, and the annual Global Corruption Perceptions Index: Transparency International (n.d.). Transparency International. [online]. Available at: <https://www.transparency.org/>

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income, fragile and conflict-stricken countries.<sup>153</sup> In these jurisdictions, up to 80 percent of disputes are dealt with through alternative justice systems as opposed to formal ones.<sup>154</sup>

Most cases heard in traditional justice systems relate to family matters. However, depending on the country, traditional courts can extend their jurisdiction to inheritance rights, land rights, taxation, as well as employment, trade and exchange

of goods.<sup>155</sup>

Formal and informal justice systems are not two separate entities. Instead, they are interlinked processes where justice providers and pathways to justice often overlap both systems.<sup>156</sup> Effective contribution to the strengthening of the rule of law in a foreign country thus requires knowledge and awareness of the complex judicial context of the said country.

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## Conflict and violence

As the 2018 UN Report charting the progress of SDG 16 puts it: 'Many regions of the world continue to suffer untold horrors as a result of armed conflict or other forms of violence that occur within societies and at the domestic level.'<sup>157</sup> The World Bank cautions that by 2030 up to two thirds of the world's poor people will be living in fragile and conflict-affected settings.<sup>158</sup>

The SDGs can contribute to reducing the root causes of conflict and violence, and to alleviating their negative consequences. However, it must be recognised that

geopolitical contexts that pose multiple threats to peace and security will remain an obstacle to rule of law strengthening and sustainable development. An understanding of some of these challenges, including comparative data at the national levels, can be gained from sources such as the Global Peace Index and the Global Terrorism Index.<sup>159</sup> Saferworld, an independent international organisation that works to prevent violent conflict and build safer lives, also provides news and analysis on SDG 16.<sup>160</sup>

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153 Haider, H. (2016). Traditional justice systems. [online] GSDRC. Available at: <https://gsdrc.org/topic-guides/transitional-justice/concepts-and-mechanisms/mechanisms/traditional-justice-systems/>

154 Denney, L. and Laws, E. (2019). Diverse Pathways to Justice for All: supporting everyday justice providers to achieve SDG16.3. [pdf] The Hague: Cordaid, [online] p. 32. Available at: <https://www.cordaid.org/en/wp-content/uploads/sites/11/2019/09/Cordaid-Security-and-Justice-rapport-Sept2019.pdf>

155 OHCHR (2016). Human Rights and Traditional Justice Systems in Africa. [online] New York and Geneva: United Nations, [online] p. 21. Available at: [https://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_2\\_HR\\_and\\_Traditional\\_Justice\\_Systems\\_in\\_Africa.pdf](https://www.ohchr.org/Documents/Publications/HR_PUB_16_2_HR_and_Traditional_Justice_Systems_in_Africa.pdf)

156 Denney, L. and Laws, E. (2019). Diverse Pathways to Justice for All: supporting everyday justice providers to achieve SDG16.3. [pdf] The Hague: Cordaid, [online] p. 17. Available at: <https://www.cordaid.org/en/wp-content/uploads/sites/11/2019/09/Cordaid-Security-and-Justice-rapport-Sept2019.pdf>

157 United Nations (2018). The Sustainable Development Goals Report 2018. [online] p. 12. Available at: <https://unstats.un.org/sdgs/files/report/2018/TheSustainableDevelopmentGoalsReport2018-EN.pdf>

158 World Bank (2020). Fragility, Conflict and Violence Overview. [online]. Available at: <https://www.worldbank.org/en/topic/fragilityconflictviolence/overview>

159 Vision of Humanity (2018). Global Peace Index 2018. [online]. Available at: <https://www.visionofhumanity.org/maps/#/>; Vision of Humanity (2018). Global Terrorism Index 2018. [online]. Available at: <https://www.visionofhumanity.org/maps/global-terrorism-index/#/>



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## c) So, what can lawyers do?

Lawyers in all sectors of the legal profession, whether corporate counsel, private practice, government advisors, parliamentarians, international agencies, civil society, or academia, are well-positioned to help implement the UN Sustainable Development Agenda. The advancement of SDG 16, grounded in principles of justice, is of particular relevance

to the profession, although the challenges are significant. Likewise, the solutions at the local, national, regional, and international levels are complex. The following examples indicate how lawyers might apply their expertise to the ambitious task of transforming our world'

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### Learn and Educate

As illustrated in this chapter, SDG 16 encompasses many topics that are directly linked with law and justice. Legal professionals can take these steps to enhance their understanding of SDG 16, as well as the policy and programmatic efforts to advance the goal, at the national, regional, and international levels. Substantial research and analysis is available that highlights the key role of the law and of the legal profession in fostering peace, justice, and strong institutions.

The following list includes sources that are useful starting points for lawyers and legal professionals interested in the SDGs, and especially SDG 16:

- The SDG 16 Hub is a practitioners' platform, launched to provide structured, centralised information on SDG 16. It

offers a growing collection of resources on SDG 16 in a searchable online database.<sup>161</sup>

- In the UN ecosystem, the main custodian agencies for SDG 16 are the UN Office for Drugs and Crime (UNODC)<sup>162</sup> and the Office of the High Commissioner for Human Rights (OHCHR).<sup>163</sup> They are responsible for the monitoring of SDG 16 targets and regularly publish data on progress achieved so far.
- Human rights bodies publish reports that are relevant to topics covered by SDG 16. Among many examples, the Working Group on Business and Human Rights presented a report in 2020 examining how the business and human rights agenda and anti-corruption efforts (target 16.5) are interconnected.<sup>164</sup>

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160 Saferworld (n.d.). Aims and Values. Available at: <https://www.saferworld.org.uk/>

161 See: <https://www.sdg16hub.org>

162 UNDOC (2021). UNDOC and the 2030 Agenda for Sustainable Development. [online] Available at: <https://www.unodc.org/unodc/en/sustainable-development-goals/sdg16-peace-and-justice.html>

163 OHCHR (2021). Reference materials. [online] Available at: <https://www.ohchr.org/EN/PublicationsResources/Pages/ReferenceMaterial.aspx>

164 Human Rights Council (2020). *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises: Connecting the business and human rights and anti-corruption agendas*. [online]. Available at: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A\\_HRC\\_44\\_43\\_AdvanceEditedVersion.pdf](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A_HRC_44_43_AdvanceEditedVersion.pdf).

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- The High-level Political Forum on sustainable development (HLPF) is the core United Nations platform for follow-up and review of the 2030 Agenda for Sustainable Development. Each year, the HLPF carries out a review of a set of SDGs. The 2019 edition included SDG 16,<sup>165</sup> as will the 2021 HLPF.<sup>166</sup>
  - Global partnerships, involving international organisations, States, the private sector, and civil society organisations, have been created with the mission of achieving SDG 16. Among the most prominent ones, we can cite Pathfinders for Peaceful, Just and Inclusive Societies,<sup>167</sup> the Global Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies,<sup>168</sup> the Global Partnership for the Prevention of Armed Conflict,<sup>169</sup> and the Global Partnership to End Violence Against Children.<sup>170</sup>
  - Specialised research centres and think tanks also regularly publish articles relevant to SDG 16, such as the Overseas Development Institute,<sup>171</sup> the Bingham Centre on the Rule of Law,<sup>172</sup> and the International Development Law Organisation.<sup>173</sup>
  - Several civil society groups and NGOs active in the fields of legal empowerment, access to justice, peace building, and rule of law strengthening, such as Namati<sup>174</sup> or Cordaid,<sup>175</sup> provide case studies of interest for legal

professionals willing to better understand how SDG 16 is being implemented.

Law firms and individual lawyers can get involved in activities to raise awareness of SDG 16 within the legal community, such as publishing research papers or organising events (legal clinics, seminars, panel presentations, or roundtables) on relevant legal topics. At the firm level, the managing and senior partners responsible for strategic decisions should review and familiarise themselves with the SDG 16 targets. Firms should identify the direct opportunities to positively contribute to achieving SDG 16.

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165 UN Economic and Social Council (2019). *Summary by the President of the Economic and Social Council of the high-level political forum on sustainable development convened under the auspices of the Council at its 2019 session*. [online] Available at: <https://undocs.org/E/HLPF/2019/8>

166 UN (2021). HLPF 2021 under the auspices of ECOSOC. [online] Available at: <https://sustainabledevelopment.un.org/hlpf/2021>

167 See: <https://www.sdg16.plus/>

168 See: <https://www.un-globalalliance.org>

169 See: <https://www.gppac.net>

170 See: <https://www.end-violence.org/>

171 See: <https://odi.org/en/about/our-work/politics-and-governance/justice-and-rule-of-law/>

172 See: <https://binghamcentre.biicl.org/>

173 See: <https://www.idlo.int>

174 See: <https://namati.org/what-we-do>

175 See: <https://www.cordaid.org/en/topic/security-justice/>

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## Integrate

This section examines ways that law firms and legal professionals can integrate SDG 16 into their internal

practices and daily work.

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### Facilitate SDG engagement within the private sector

A global effort is underway to engage businesses and financial institutions in supporting the achievement of the Sustainable Development Agenda. Corporate counsel, as well as lawyers who advise private sector clients, can play a key role in facilitating awareness and action.

The UN Global Compact, established in 2000, is one of the world's leading corporate responsibility initiatives.<sup>176</sup> The main purpose is to encourage companies to support a core set of values in the areas of human rights, labour rights, environment, and anti-corruption. Sustainable development is now a key area of focus, and the Global Compact has compiled an extensive collection of resources and toolkits to facilitate business engagement with the SDGs. It has also developed a 'Business for the Rule of Law Framework' and published a Guide for General Counsel on Corporate Sustainability.<sup>177</sup> To help advance SDG 16, the Global Compact has additionally launched an Action Platform on Peace,

Justice and Strong Institutions.<sup>178</sup>

The SDGs also provide the opportunity to uphold the UN Guiding Principles on Business and Human Rights, adopted in 2011.<sup>179</sup> The UNGPs, as they are called, aim to provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. They are based on a governance framework that reinforces the duty of States to protect human rights ('Protect'), the responsibility of companies to respect human rights ('Respect'), and the need to provide adequate judicial and non-judicial remedies ('Remedy'). The UNGPs are referenced in paragraph 67 of the Agenda 2030 Resolution. The UN Working Group on Business and Human Rights has issued recommendations on embedding 'protect, respect, remedy' into the implementation of the SDG framework, noting that the increased role of business in development must be coupled with accountability. In particular, 'State

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<sup>176</sup> Information on the UNGC, including the SDG Compass resource, is available at: <https://www.unglobalcompact.org>

<sup>177</sup> Guide for General Counsel on Corporate Sustainability (2015) is available at: [https://www.unglobalcompact.org/docs/publications/Guide\\_for\\_General\\_Counsel.pdf](https://www.unglobalcompact.org/docs/publications/Guide_for_General_Counsel.pdf); Information on the UNGC Business for the Rule of Law Framework is available at: <https://www.unglobalcompact.org/take-action/action/business-rule-of-law>;

<sup>178</sup> Information on the UNGC Action Platform for Peace, Justice & Strong Institutions is available at: <https://www.unglobalcompact.org/take-action/action-platforms/justice>

<sup>179</sup> United Nations, (2011). Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy Framework'. Document A/HRC/17/31. [pdf] Available at: [https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr\\_eN.pdf](https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf). For the leading source of information on related developments, see the website of the Business and Human Rights Resource Centre: <http://www.business-humanrights.org>

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implementation of SDG 16 must include measures for improving access to remedy for victims of business-related human rights abuses'.<sup>180</sup>

Finally, Financing for Development also formed an important workstream in further collaboration around the SDGs,

including through the Addis Ababa Action Agenda.<sup>181</sup> This is now an integral part of the Sustainable Development Agenda, drawing in many public and private actors across the financial and investment sectors. Anti-corruption and integrity measures, of relevance to SDG 16, are part of this process.

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## Advance SDG 16 issues within professional associations

Legal organisations and bar associations around the world can help advance the SDGs through their various roles in professional education, public awareness, research and publications, and policy advocacy. Lawyers can seek to contribute to existing SDG-related projects, or take the lead in initiating them. Within the American Bar Association, the Rule of Law Initiative undertakes a range of programmes related to governance, judicial systems, anti-corruption, conflict-related migration, and human rights protection, supporting inclusive and sustainable development.<sup>182</sup> The International Bar Association is active in every field of legal practice of relevance to SDG 16, including anti-money laundering, media law and freedom of expression, environmental protection, international criminal law and international human rights.<sup>183</sup> Such organisations offer both professional and pro bono opportunities to advance SDG 16.



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180 OHCHR, (2017). The business and human rights dimension of sustainable development: Embedding "Protect, Respect and Remedy" in SDGs implementation. Information Note. [pdf]. Available at: [https://www.ohchr.org/Documents/Issues/Business/Session18/InfoNoteWGBHR\\_SDGRecommendations.pdf](https://www.ohchr.org/Documents/Issues/Business/Session18/InfoNoteWGBHR_SDGRecommendations.pdf). This document provides 10 key recommendations to governments and businesses from the UN Working Group on Business and Human Rights; see para. 8 on SDG 16.

181 The following document, issued in September 2018, summarises the UN Secretary General's SDG financing strategy until 2021: [https://www.un.org/sustainabledevelopment/wp-content/uploads/2018/09/SG-Financing-Strategy\\_Sep2018.pdf](https://www.un.org/sustainabledevelopment/wp-content/uploads/2018/09/SG-Financing-Strategy_Sep2018.pdf). See also UNCTAD, (2015). Mobilizing Investment for the Sustainable Development: Background information and considerations pertinent to the Third International Conference on Financing for Development. Document TD/B/C.II/28. Available at: [https://unctad.org/meetings/en/SessionalDocuments/ciid28\\_en.pdf](https://unctad.org/meetings/en/SessionalDocuments/ciid28_en.pdf)

182 See the ABA ROLI, (2017). Annual Report 2016-2017. [pdf]. Available at: <https://www.americanbar.org/content/dam/aba/directories/roli/misc/aba-rol-i-annual-report-2016-2017.pdf>. See also American Bar Association. Inclusive and Sustainable Development. [online]. Available at: [https://www.americanbar.org/advocacy/rule\\_of\\_law/what-we-do/inclusive-sustainable-development/](https://www.americanbar.org/advocacy/rule_of_law/what-we-do/inclusive-sustainable-development/)

183 See the website of the International Bar Association, available at: <https://www.ibanet.org/>. The IBA also hosts an international rule of law directory. Available at <https://www.rolidirectory.org/Organisation/Default.aspx>

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## Act

Through pro bono work, advocacy and community involvement, many law firms around the world contribute to ensuring access to justice for all. This section highlights

opportunities for law firms and legal professionals to engage with SDG 16.

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### Reinforce the global legal order

SDG 16 presents a far-reaching opportunity for the legal profession to reinforce the global legal order. This includes support for the treaty-making process itself, including preparatory work, negotiation, ratification and implementation. As has been demonstrated throughout this Legal Guide to the SDGs, treaties, conventions, and other international agreements form a foundation for legal advocacy and action. Thus, reinforcement of the global legal order can help promote justice at all levels.

It is worth recalling that, in the context of the UN Millennium Development Goals, the UN Secretary-General noted that ‘Support for the rule of law would be enhanced if countries signed and ratified international treaties and conventions.’<sup>184</sup> Many countries were unable to participate fully in the international treaty framework due to the lack of the necessary expertise and resources, especially when national legislation was needed to give force to international instruments. The Secretary-General therefore called upon ‘all relevant United Nations entities to provide the necessary technical assistance that will make it possible for every willing

State to participate fully in the emerging global legal order’.<sup>185</sup> Such efforts can be redoubled in the implementation of the SDGs.

In complex multilateral law and policy making processes, pro bono providers (law firms, barrister chambers, universities) can provide free legal support to under-resourced developing countries or civil society observer organisations in order to create a level playing field between international negotiators.

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<sup>184</sup> Annan, K. (2000). We the Peoples: The Role of the United Nations in the 21st Century. Document A/54/2000, p 69. This document, commonly referred to as The Millennium Report, is available at: [https://www.un.org/en/events/pastevents/pdfs/We\\_The\\_Peoples.pdf](https://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf)

<sup>185</sup> The Millennium Summit was held from 6-8 September 2000 at United Nations Headquarters in New York. It was an integral part of the fifty-fifth session of the General Assembly, which had been designated ‘The Millennium Assembly of the United Nations’. A key element of the outcome became known as the UN Millennium Development Goals. See: United Nations, (2000). Millennium Summit (6-8 September 2000). [online]. Available at: [https://www.un.org/en/events/pastevents/millennium\\_summit.shtml](https://www.un.org/en/events/pastevents/millennium_summit.shtml)

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## Strengthen access to justice

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The legal and judicial professions are at the heart of justice reform and service delivery. Many tirelessly work to strengthen access to justice in areas such as empowering the poor and marginalised. The SDG Agenda can provide an additional impetus to seek response and remedies for injustice and improving legal protection, legal awareness, and legal aid.

The legal profession well understands that a major obstacle in accessing justice is the cost of legal advice and representation. Legal aid programmes therefore play a key role in efforts to enhance access to justice. Again, the UN can be a source of support for relevant action by the legal profession. For example, in 2012 it adopted the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems and subsequently conducted a comprehensive Global Study on Legal Aid.<sup>186</sup>

In 2019, The Task force on Justice, an initiative of the multi-stakeholder partnership 'Pathfinders for Peaceful, Just and Inclusive Societies', published the report 'Justice for All'.<sup>187</sup> The report quantifies the justice gap, identifying that 5.1 billion people – two-thirds of the world's population – lack meaningful access to justice. Women and children, poor people, people with disabilities, and people from minority ethnic communities find it hardest to access justice.

Additionally, there is an economic cost to injustice – in the low-income countries for which the Task Force on Justice gathered data, everyday justice problems cost more than 2 percent of GDP. By contrast, access to justice provides positive flow-on effects to the economy. The report contains a number of recommendations for policy-makers to improve access to justice at the national and international levels.

At the Ministerial Meeting on Building Peaceful and Inclusive Societies through Justice for All, held on 14 April 2021, 16 countries endorsed a letter to United Nations Secretary-General António Guterres calling to put people at the centre of justice.<sup>188</sup> The letter states: 'By embracing people-centred justice, we can reduce inequality and exclusion, reduce all forms of violence, revive the social contract and rebuild trust. This will enable us to more effectively uphold human rights, combat racism, discrimination and other forms of structural injustice and to better meet demands from the next generation, most notably for climate justice.' Furthermore, signatories called for the UN to develop a more unified voice and approach on rule of law, and to work more closely with international financial institutions, regional organisations, and civil society. The United Nations is encouraged to embrace the five principles expressed in the Declaration on Equal Access to Justice for All by 2030.<sup>189</sup>

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<sup>186</sup> Both the UN Office on Drugs and Crime and the UN Development Programme were involved in these projects. See: United Nations, (2013). United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. [pdf]. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/UN\\_principles\\_and\\_guidelines\\_on\\_access\\_to\\_legal\\_aid.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf). United Nations, (2016). Global Study on Legal Aid – Global Report. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global\\_Study\\_on\\_Legal\\_Aid\\_-\\_FINAL.pdf](https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global_Study_on_Legal_Aid_-_FINAL.pdf)

<sup>187</sup> Center for International Cooperation, (2019). *Justice for All: Final Report*. [online]. Available at: <https://www.justice.sdg16.plus/>

<sup>188</sup> Countries that endorsed the letter are Afghanistan, Canada, France, Germany, Indonesia, Japan, Liberia, Libya, Luxembourg, the Netherlands, Portugal, São Tomé and Príncipe, Sierra Leone, Solomon Islands, Sweden, and Switzerland

<sup>189</sup> Joint Letter to the Secretary-General of the United Nations, (2021). *Reimagining social contract: A call to put people at the centre of justice*. [online]. Available at: <https://g7plus.org/resource/detail/70>



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In the context of SDG 16, it is worth noting that access to justice is also relevant to creating conditions for peace. In support of its guiding principles for stabilisation and reconstruction, the US Institute of Peace makes the following observation:<sup>190</sup>

‘Access to justice is more than improving an individual’s access to courts or guaranteeing legal representation. Access to justice is defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards. There is no access to justice where citizens (especially marginalised groups) fear the system, see it as alien, and do not access it; where the justice system is financially inaccessible; where individuals have no lawyers; where they do not have information or knowledge of rights; or where there is a weak justice system. Access to justice involves normative legal protection, legal awareness, legal aid and counsel, adjudication, enforcement, and civil society oversight. Access to justice supports sustainable peace by affording the population a more attractive alternative to violence in resolving personal and political disputes.’

The COVID-19 pandemic and the lockdown measures that followed have also restricted the accessibility of justice systems. Lawyers must pursue innovative avenues to strengthen access to justice, including through the use of technology. Many legal organisations and bar associations are involved in such efforts within their respective jurisdictions, evaluating procedural, substantive, and ethical questions.

There are also numerous initiatives at the grassroots level, aiming to bring legal information and guidance to the billions

of people around the globe without access to the law. A few examples may offer insights on various forms of engagement opportunities.

An NGO called Namati, is leading a campaign tied to SDG 16 under the banner of ‘Justice for All 2030’, aiming to raise funds for access to justice and increase protections for justice defenders. The Hague Institute for the Innovation of Law supports justice accelerator projects and hosts an annual Innovating Justice Forum.<sup>191</sup> The World Justice Project organises a World Justice Forum every two years, attracting hundreds of participants from various sectors and showcasing the World Justice Challenge.<sup>192</sup>

Overall, the implementation of SDG 16 is already accelerating global action at the intersection of law and technology.



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190 See US Institute of Peace. Necessary Condition: Access to Justice. [online] par. 7.8. Available at: <https://www.usip.org/guiding-principles-stabilization-and-reconstruction-the-web-version/rule-law/access-justice>

191 Information on The Hague Institute for the Innovation of Law is available at: <https://www.hiil.org/> and <https://www.hiil.org/what-we-do/the-justice-accelerator/>

192 Information on the World Justice Challenge is available at: <https://worldjusticeproject.org/our-work/engagement/world-justice-challenge>

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## Assist civil society organisations and justice defenders

Law firms, corporate legal departments, and individual lawyers can all contribute to the implementation of SDG 16 by providing pro bono legal services and other forms of support to a range of civil society organisations, ranging from well-established global development charities to local grassroots partnerships. It should also be remembered that in many jurisdictions, civil society organisations themselves are under threat. National governments may deny permission to operate or otherwise seek to curtail their activities. A strong

civil society sector, along with an open media, is itself an important source of accountability.

Additionally, some of these groups and individuals, whose efforts go to the core of rule of law and access to justice questions, can be hailed as ‘justice defenders’.<sup>193</sup> Yet again, such efforts may be targeted by repressive governments. A4ID is leading the way in facilitating such engagement of pro bono providers for civil society organisations.<sup>194</sup>

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## Strengthen the Rule of Law

In every country, the legal profession has a pivotal role in ensuring a well-functioning, accountable, and transparent government and justice institutions where legal standards and citizens’ experience of the law and legal services are improved.

Working with the development community, legal professionals can directly contribute to strengthening the rule of law by providing pro bono legal assistance. This support can take many forms, from enhancing civil society

and parliamentary oversight to addressing challenges in the justice sector such as police brutality, inhumane prison conditions, lengthy pre-trial detention, and strengthening linkages between formal and informal justice structures.<sup>195</sup>

A4ID’s ROLE UK programme works to strengthen the rule of law in developing countries by supporting partnerships to provide high-quality pro bono legal and judicial expertise.<sup>196</sup>

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193 Note that under SDG 16, Indicator 16.10.1 estimates the number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months.

194 See <http://www.a4id.org/get-involved/becoming-a-legal-partner/>

195 See the general overview on: United Nations and the Rule of Law. Access to Justice. [online]. Available at: <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/>

196 See: <https://www.roleuk.org.uk>



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