

Justice Contexts: Sustainable Development Goal 16 and Transitional Justice

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1. Introduction

The adoption of the Sustainable Development Goals (SDGs) in September 2015 marked more than a continuation of the Millennium Development Goals (MDGs), focused as they are on seeking to “encapsulate and promote global aspirations across a wide array of topic areas” with a “plurality of objectives” (French and Kotzé 2018, p. 1). Described as a “comprehensive and ambitious vision of development that seeks to eradicate a stunning list of long-standing social ills” (Collins 2018, p. 67), the underpinning narrative of the SDGs dominates and unifies a plurality of actors, from global civil society to business to international organizations (Collins 2018, p. 66). As a complex set of 17 goals, 230 indicators, and 169 targets,¹ the SDGs (at least rhetorically) apply to Global North countries as much as to Global South Countries, earning them the reputation of being ‘Global Goals’. But within this ambition are a series of tensions which raise challenges. Observers have remarked upon the tensions between different narratives; for example, whether the SDGs will supplant the previously dominant human rights paradigm (Collins 2018, p. 67) and whether advances towards achieving some goals may threaten advancement towards others (French and Kotzé 2018, p. 2). The normative agenda of the SDGs belies the complexities, tensions, and challenges facing each of the goals. This is particularly the case when we reflect in detail on the nuances and contexts of particular SDGs. At the 2023 SDG Summit, the UN General Assembly described progress toward the SDGs as too slow and even in regression in some countries as a result of multiple, overlapping crises such as the persistence and intensification of armed conflicts that cause “untold human suffering” and create specific challenges for affected societies (UN General Assembly 2023).

Like the other chapters in this volume, we too focus on SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to

¹ Available online: <https://www.cgdev.org/blog/230-indicators-approved-sdg-agenda> (accessed on 7 September 2023).

justice for all and build effective, accountable and inclusive institutions at all levels. A wide-ranging goal, SDG 16, including reference to ‘peace’, ‘justice’, and ‘inclusion’ has been described as “the tag for the rule of law” (Soininen 2018, p. 250). This renders SDG 16 not only a goal in its own right but a keystone goal, meaning that the achievement of other goals is predicated on it. Arajärvi has written that “The rule of law is key in achieving sustainable development. The rule of law anchors development to peace and security, respect for human rights, and good governance” (Arajärvi 2018, p. 188), while Fiedler et al. contend that without SDG 16 “it is difficult to imagine how the other SDGs should otherwise be achieved” (Fiedler et al. 2015, p. 81). Its inclusion in the SDG 2030 Agenda, however, was not straightforward. Debates took place between UN Member States over whether the rule of law should be included in the same goal as peace, and how to balance domestic and international rule of law concerns (Arajärvi 2018). Indeed, in the end, ‘rule of law’ was replaced by ‘access to justice’ in the name of the goal as a political compromise (Arajärvi 2018, p. 202) and throughout the negotiations over the goal, targets, and indicators, no real consensus was achieved among the member states of the working groups (Arajärvi 2018, p. 204). However, a rule of law emphasis imbues SDG 16, despite only one target (16.3) explicitly focusing on rule of law issues.

SDG 16 targets and indicators focus on crime statistics, sentencing of perpetrators, presence and perception of discrimination, and access to information. This presents “a static picture of a justice network of courts, police, and policies with which the society at large interacts in more or less inclusive and effective ways” (Jones and Jeffrey 2019, blog post). This can explain the focus at the 2019 UN High Level Political Forum on capacity, reform of institutions, and strengthening rule of law for achieving SDG 16.² Other critiques focus on the vague and complex nature of how SDG 16 is articulated. Fiedler et al. assert that it is “neither concise nor easy to communicate”, that its targets “show either too much ambition or none at all” and that it tackles issues which are “notoriously difficult—if not impossible—to measure” (Fiedler et al. 2015, pp. 80–82). Critiques of SDG 16 have also called for greater focus on inhibitors and drivers of good governance as well as on external actors and incentives for capacity-building in the areas of peaceful societies and institutions (Arajärvi 2018, pp. 213–14). It is with this context in mind that we focus our discussion on SDG 16 and transitional justice, presenting this set of empirical contexts as particularly

² Available online: <https://sustainabledevelopment.un.org/index.php?page=view&type=13&nr=3060&menu=1634> (accessed on 29 August 2025).

pertinent for exploring the challenges to SDG 16, the possibilities for its success, and the conceptual ramifications for the way the goal has been framed and approached in discourse, policy, and practice. In the chapter that follows, we first address the policy landscape for both transitional justice and SDG 16, before reflecting on a series of intellectual ramifications: (1) going beyond the law, (2) moving from institutions to legitimacy, (3) remaining attentive to context, and (4) enhancing focus on prevention and sustainable development. We then conclude by reflecting on what transitional justice debates teach us about the key questions for seeing a people-centred justice for the SDGs.

2. Policy Landscape for SDG 16 and Transitional Justice

The SDGs do not directly refer to massive human rights violations or efforts to address the legacies of those violations. Nevertheless, transitional justice is relevant to the sustainable development agenda. This is because societies that have experienced gross human rights violations face particular and immense challenges in making progress towards the SDGs. With massive numbers of victims, severely divided communities, weak and untrusted institutions, and depleted resources, these countries cannot approach development in the same way as those that have not suffered such injustice. Despite not mentioning transitional justice, the targets included in SDG 16—including rule of law, access to justice, prevention of violence, inclusive institutions, reduction in corruption, and access to information—as well as SDG 5 on gender equality, SDG 10 on equality, and SDG 4 on education provide a framework for understanding its potential contributions to sustainable development (Working Group on Transitional Justice and SDG 16+ 2019). In addition, connections between the different goals are important for taking advantage of the opportunity provided by the SDGs for those working in transitional justice. Notions such as access to justice, for example, have long been considered within the development field as tools of more traditional development objectives such as poverty reduction, health, and education. Framing transitional justice as relevant to development, therefore, may require doing more than justifying it in terms of SDG 16 alone.

2.1. International Policy Discourse

At the level of international policy discourse, there is evidence of an increasing recognition of transitional justice as an element of sustainable development. In 2022, for example, the UN Human Rights Council stated, “the fight against impunity and the implementation of transitional justice processes, including the promotion of truth, justice, reparation and guarantees of non-recurrence, can prevent the

recurrence of past atrocities or similar violations and contribute to sustainable peace and development” (UN Human Rights Council 2022b). This builds on previous policy discourse among actors such as the UN Office of the High Commissioner for Human Rights and the Task Force on Justice that identifies the specific ways in which transitional justice can make such a contribution, including by increasing agency, empowerment, trust, social cohesion, and inclusion; reducing grievances; and identifying and addressing the drivers of serious violations (UN Human Rights Council 2022a; UN General Assembly 2022; Task Force on Justice 2019; Global Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies 2019; Working Group on Transitional Justice and SDG 16+ 2019). Looking further back, prior to the adoption of the SDGs, the former Special Rapporteur for the promotion of truth, justice, reparation, and guarantees of nonrecurrence, Pablo de Greiff, observed that previous development frameworks, including the MDGs, had neglected justice considerations overall, arguing that transitional justice could “contribute to mitigating” certain “developmental blockages” “by providing recognition of rights, fostering individual and institutional trust and building positive social capital” (UN General Assembly 2013).

Given the contribution that transitional justice can make to sustainable development, international policy discourse has also called for more practical integration. The Human Rights Council, for example, has called on states to use transitional justice as a “strategic tool” of development and “to design, fund and implement comprehensive transitional justice measures as part of their development efforts” (UN Human Rights Council 2022b). The African Union understands transitional justice as a model for explicitly addressing development challenges, recommending that it be included in “development measures designed to rectify structural inequalities, marginalization and exclusion for achieving social justice and equitable and inclusive development” (African Union 2019). The Working Group on Transitional Justice and SDG 16+ has highlighted practical examples of integration and proposed strategies for mobilizing support and establishing such interventions in practice, such as strengthening collective action among victims’ groups and networks, civil society organizations, and social and political movements; incorporating transitional justice into responses at the local, national, regional, and global levels; and adopting a long-term perspective on monitoring, operationalization, and impact (Working Group on Transitional Justice and SDG 16+ 2023).

2.2. National Policy Discourses

At the national level, transitional justice processes in a number of countries with legacies of massive human rights violations have had a clear development component. In Peru, Chile, and Guatemala, for example, individual reparations combined financial compensation with social measures in the areas of education and healthcare. In countries such as Peru, Morocco, and Colombia, collective reparation programmes have targeted communities affected by violence or exclusion, while in Tunisia, the Truth and Dignity Commission defined marginalized regions of the country as “victim-regions”. Truth commissions also often recommend broad reforms to the institutions and structures that facilitate violence and exclusion, which can be a long-term even generational project. In 2022, for example, Sierra Leone enacted legislation on gender equality and land rights in line with the country’s truth commission’s recommendations from 2004 (Working Group on Transitional Justice and SDG 16+ 2023).

In some countries, attempts to address the past can be incorporated into development and SDG discourse, policies, and reporting, a practice encouraged by the Human Rights Council (UN Human Rights Council 2022b). In Colombia, for example, the National Development Plan 2022–2026 (Government of Colombia 2023) includes compliance with some of the country’s truth commission’s recommendations, although not as much as civil society had advocated. In Uganda, civil society has used the Annual Sustainable Development Goals Conference to discuss strategies for collecting and incorporating transitional justice-related data in the government’s SDG Voluntary National Reviews (VNRs), a process through which countries report their progress made in implementing the 2030 Agenda. In a number of countries—including the Central African Republic, The Gambia, Liberia, Colombia, Sierra Leone, Timor Leste, and South Africa—recent VNRs have in fact reported on transitional justice elements such as accountability, reparation, memorialization, and truth commissions and the implementation of their recommendations (Working Group on Transitional Justice and SDG 16+ 2023).

3. Intellectual Ramifications

3.1. Beyond the Law

Amongst transitional justice scholars there is a lively debate concerning the role of the law in transitional justice processes and the dominance of legalism in shaping how injustice is understood, identified, and addressed. McEvoy’s work exemplifies this body of thought, arguing for a ‘thicker’ understanding of

transitional justice (McEvoy 2007). For McEvoy, the dominance of legalism—by which he means that “a strongly positivistic trend of scholarship and practice persists in the legal understanding of transitional justice” (ibid, p. 415)—has significant effects on the conceptualisation and practice of transitional justice. He argues for a ‘thicker’ understanding which includes politics within it, situates transitional justice interventions in context, and makes room for other, non-legal forms of knowledge.

What we see with SDG 16 is that a rather narrow approach to what counts as justice is foregrounded, with a focus on legal justice and legal capacities as well as strengthening of the rule of law. Much of the attention to SDG 16 still goes to target 16.3 on rule of law and access to justice. In the Task Force on Justice report *Justice for All* (Task Force on Justice 2019), the ‘justice gap’ is identified as being the fact that 4.5 billion people are excluded from the social, economic, and political opportunities that the law provides; 1.5 billion have a criminal, civil, or administrative justice problem they cannot solve; and 253 million live in extreme conditions of injustice without any meaningful legal protections. When we think about this justice gap in the context of reckoning with large-scale violations of human rights, not only is this justice gap more entrenched—often legal institutions and/or the state are the perpetrators of, or complicit in, the violations and only 3% of development assistance goes to justice in conflict-affected countries (Duthie 2019—but it would be remiss to focus only on the legal aspects of justice in order to contribute to peace and trust in institutions. Speaking to a more ‘transformative’ agenda in transitional justice, McAuliffe writes that “The justifications for including issues of structural violence and inequality as integral components of transitional justice are pragmatic (peace can only be sustainable with attention to root causes), philosophical (an ethical preference for distributive justice and equity) and sociological (polls of survivor populations overwhelmingly demonstrate that socio-economic concerns trump the desire for criminal justice or truth in transitions)” (McAuliffe 2017, p. 2).

Such issues to which McAuliffe speaks do require attention to rule of law reforms but that is not the whole picture. In order to address the justice gap in transitional justice contexts, legalism will need to be complemented by, or even play second fiddle to, other forms of justice. This could include symbolic justice (memorials, apologies) or distributive justice (reparations which address long-standing inequalities and marginalization at the root of the causes and varied experiences of violence). In work on the impact of transitional justice on human rights and democracy, Olsen et al. (2010) find that the most effective combination of mechanisms includes, but goes beyond, retributive justice in the form of trials. In addition to legal processes, amnesties and truth commissions will have a more

positive effect on human rights and democracy when applied in conjunction with trials. More recent work by transformative justice scholars takes a different approach to the question of the role of the law and focuses on socio-economic (in)justice, root causes of conflict, and distributive justice as more effective in offering redress for harm and building sustainable peace. Examples offered by work in this area include attention to structural violence in post-apartheid South Africa (Evans 2015) and popular activism around socio-economic justice in Bosnia-Herzegovina (Lai 2020). Transformative justice is a growing field of study and there is thus far limited evidence of what a transformative justice approach concretely offers in terms of positive justice effects. However, the work which exists makes a strong case for thinking of transitional justice contexts as offering an opportunity to re-think a dominant legal conceptualisation of justice through empirical examples of where particularly challenging justice gaps have been approached through non-legal justice interventions.

This is where links between transitional justice and development goals other than SDG 16 can be important. In its 2019 VNR, for example, South Africa discussed its development progress, in part, in terms of its efforts to address its past, even 25 years after the end of apartheid. With regard to SDG 10 on inequality, the government reported that the “legacy of apartheid, particularly the economic isolation of black townships and unequal distribution of land, continues to weigh on incomes in poor communities”. South Africa is one of most unequal countries in the world “due to its historically deep-rooted economic, social and political exclusion of the apartheid regime, which has created structural bottlenecks in addressing poverty, inequality and unemployment”. The government has therefore “aimed to address the legacy of our apartheid past. . .through the provision of a social safety net, which have had a major impact on poverty and reducing the hunger” (Government of South Africa 2019, pp. 82, 116).

3.2. From Institutions to Legitimacy

SDG 16 targets and indicators include a focus on crime statistics, sentencing of perpetrators, presence and perception of discrimination, and access to information. Calls for a people-centred justice and for people-centred data to form the evidence base for action on SDG 16 (Task Force on Justice 2019) are potentially in tension with a goal which nonetheless still has a significant focus on institutions of government, governance, and justice systems. This is not to suggest that such institutions are not key in reducing the justice gap, but transitional justice contexts again lead us

to think further beyond the institutions and to understand what a people-centred justice could or should look like.

Debates in transitional justice scholarship have seen a shift from institutional reform to 'justice from below' (McEvoy and McGregor 2008) and 'localized justice' (Shaw et al. 2010), partly as a response to critiques of transitional justice research and practice as being in danger of losing their credibility. The legitimacy crisis relates to interventions which stand accused of not reflecting the expressed needs or expectations of the population (Robins 2017); of being too expensive, with limited evidence of positive impact (Thoms et al. 2010); and of emerging from Western Enlightenment ways of thinking before being co-opted by a neoliberal agenda (Bowsher 2018). These reflections remind us that a people-centred justice will not necessarily be exempt from the politics of intervention: who are 'the people'? Who can speak on behalf of 'the people'? What if the people do not want the justice which is on offer as part of SDG 16? There is more to be done in connecting experiences of justice, perceptions of the legitimacy of justice institutions, and specific interventions and actions. Sierra Leone, in its 2019 VNR, included in its reporting on socioeconomic participation and inclusion the work of the organization Fambul Tok to develop an "inclusive planning and local governance model", piloted in 547 villages in 2016–2017, an initiative informed by its experience "implementing post-war, grassroots-based, peace and reconciliation interventions in Sierra Leone". This local development model has, the government stated, demonstrated its "strength for healing grievances and promoting and enhancing local peace and coexistence" (Government of Sierra Leone 2019, p. 18).

In the Justice for All report, people-centred data is seen as key to arriving at a people-centred justice: "statistics tell us little about people's experience of justice" (Task Force on Justice 2019, p. 30). Going directly to the population, rather than taking institution-level data alone, is thought to offer the possibility of addressing challenges such as lack of reporting and barriers to justice by asking the population about their opinion of justice. This could include in-depth interviews, ethnographic observations, and the use of narratives to produce analytically rather than statistically generalizable insights. This is not to say that institution-level data in larger studies is not important, but that it must be complemented by data which is better able to capture individual, qualitative, and lived experiences of justice. This sentiment is echoed in the 2019 report of the Working Group on Transitional Justice and SDG 16+, which states that positive impacts are seen to depend on the perceived legitimacy of the justice process (Working Group on Transitional Justice and SDG 16+ 2019, p. 7). However, arriving at an understanding of varied perceptions of legitimacy

goes beyond the population being asked what they want. Perceptions of legitimacy will not be static over time and will depend on myriad factors which are not yet well enough known, certainly in transitional justice contexts. The SDG 16 indicators could include more intangible notions, such as trust and confidence in institutions, or refer directly to transitional justice processes which have the potential to work beyond the institution through grassroots reconciliation programmes, education reform, or public outreach. This would stimulate momentum around gathering a broader evidence base: asking people their opinions but also undertaking primary research on what factors shape perceptions of legitimacy over time.

3.3. Context as Key

Context provides one of the key reasons for considering the contribution of transitional justice to the SDGs. This is because societies that have experienced massive human rights violations face particular challenges in making progress towards sustainable development. Not only do these countries face the structural problems that may have facilitated violence and repression, such as weak institutions and inequality, they must also address the legacies of massive violations, which include social divisions, grievances, and the absence of trust. One of the tensions within the SDG agenda is that while the goals are supposed to be universal, countries that have suffered massive rights violations cannot approach development in the same way as those that have not suffered such injustice. As suggested above, thicker understandings of transitional justice should take into account these variations in context but may be in tension with a narrow approach to justice within SDG 16.

In addition, however, even among countries that have experienced large-scale abuses, variations in context makes a significant difference to the challenges faced. In countries that have undergone some kind of transition, for example, such as Colombia, Kenya, and Tunisia, attempts to address the past, while they face political and other challenges, have seen traction. However, in countries where violent conflict and repression are still ongoing, such as Afghanistan, the Central African Republic, Iraq, Libya, and South Sudan, the lack of institutions and trust and the prevalence of instability and fear present even more fundamental obstacles to progress (Duthie 2019). The Central African Republic's 2019 VNR, for example, "highlights the need for extensive reform to make justice independent and impartial as well as the deep gender inequalities and extensive corruption in most sectors of the country" (Picco and Duthie 2019).

3.4. Prevention and Sustainable Development

As indicated above, groups such as the Task Force on Justice, the Global Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies, and the Working Group on Transitional Justice and SDG 16+ have articulated the contribution of transitional justice to sustainable development, specifically in terms of its ability to help prevent the recurrence of rights violations, violence, and violent conflict. SDG 16 includes the target of reducing all forms violence, and while transitional justice may in some cases play a direct role in preventing the recurrence of violence by prosecuting perpetrators of abuses, research has found that its most significant effect on prevention is likely to be more indirect and long term by, for example, addressing grievance and fostering inclusion of victims and marginalized groups, identifying root causes of conflict and abuse, and reforming and building institutions (International Center for Transitional Justice 2021). And while the notion of guarantees of nonrecurrence have always encapsulated the aim of transitional justice processes to prevent the recurrence of massive rights violations, there is evidence that they can also help to break cycles of violence and conflict more broadly. Research conducted by the International Center for Transitional Justice in Colombia, Morocco, Peru, The Philippines, and Sierra Leone demonstrates that transitional justice can in fact play such a role in prevention, although its impact may be limited by a lack of participatory processes, limited implementation, and a range of contextual factors (International Center for Transitional Justice 2021). Quantitative evidence provides some support for the claim that transitional justice can contribute to prevention. Studies have found correlations, for example, between certain transitional justice processes and the reduction in repression, atrocities, and the recurrence of violent conflict, depending on the nature and combination of those processes as well as other contextual factors (Kim and Sikkink 2010; Auschwitz Institute for the Prevention of Genocide and Mass Atrocities 2020; Payne et al. 2017; Salehi and Williams 2016; Lie et al. 2007).

The current global policy agenda that prioritizes prevention points to the preventive function of transitional justice, including in resolutions of the UN General Assembly, Security Council, and Human Rights Council, and a major 2018 study by the World Bank and UN (UN General Assembly 2016; UN Security Council 2016; UN Human Rights Council 2016; World Bank-United Nations 2018). A joint study of the Special Rapporteur and the Special Advisor to the UN Secretary-General on the Prevention of Genocide suggests that “while transitional justice should not be conceived primarily as a ‘peace-making’ instrument, numerous indicators demonstrate that it can contribute to sustainable peace and security by helping to

break cycles of violence and atrocities, delivering a sense of justice to victims, and prompting examinations of deficiencies in State institutions that may have enabled, if not promoted, those cycles” (UN Human Rights Council 2018).

The former Special Rapporteur on transitional justice developed a “framework approach” to prevention that includes state interventions but goes beyond institutions to cover activities and actors in civil society and the cultural and individual spheres. Civil society’s role in aggregating and magnifying voices, he argues, can be supported by repealing laws limiting civic space, establishing platforms, coalitions, networks, and forums, and fostering an enabling environment, while the cultural and individual spheres include education, arts, archives and documentation, and religion (UN General Assembly 2017). As discussed above, this represents an important step in moving transitional justice beyond state institutions to more people-centred legitimacy.

4. Conclusions: A People-Centred Justice

How we define and pursue justice is not only a technical question of institutional reform, crime statistics, and procedural innovations. It is also a question of the story which we tell about ourselves—of who counts, of who should be protected, and of who should be held to account for breaking the norms. This is particularly relevant in the context of transitional justice, where large-scale violations of human rights have broken social bonds, reduced trust in institutions, and questioned the moral basis of collective life. Justice interventions, in these contexts, provide a link to a larger story of redistribution, democracy, and agency which encourages us to ask more of SDG 16. In order to do so we need to acknowledge the plurality of voices, and therefore interlocutors, of justice. This is the reality of SDG 16, which demands a people-centred justice.

A people-centred justice implicitly seeks to put the victim at the heart of justice-seeking. In work on citizen-victims, not directly connected to transitional justice, Holder writes, “Most people display a disengaged cynicism about the law and its institutions whether in Australia, Britain or elsewhere. But for those who become victims of violence this quickly becomes insupportable when they enter the criminal justice system. ... Victims are informed both by the practical and the objective context in which they find themselves, as well as by their own moral and social intuitions. They become everyday philosophers of their situation” (Holder 2018, p. 7). In order to put this front and centre of attempts to realize SDG 16, we must appreciate the plurality of the victim voice. Transitional justice literature has grappled with the way in which justice interventions can frame hierarchies of ‘worthy’ and ‘underserving’

victims (McEvoy and McConnachie 2013) as well as the marginalization of victim needs which do not fit with the justice intervention's offerings (Robins 2011). The tricky balance between justice norms/legal requirements and the needs/desires of victims, which is so pertinent to transitional justice debates, teaches us that there is no straight forward way to bring people to the centre of justice.

This is not to say that SDG 16 should not take a people-centred justice approach. Insights from transitional justice make clear the complexities, but also the vital importance of doing so. Moreover, as we have illustrated in the overview provided in this chapter, there are cases where transitional justice interventions have been able to combine justice and development, contributing to prevention of future violence and securing a more stable peace on which development can occur. This is, ultimately, at least part of the puzzle of achieving an inclusive justice, even for those in situations of the most extreme deprivation of their access to justice.

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