

# Introduction

Goal 16 of the Sustainable Development Goals (SDGs) seeks to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”<sup>1</sup>

During 2016, the Southern Africa Litigation Centre, in conjunction with the National Association of Women Judges and Magistrates, the Malawi judiciary and the International Commission of Jurists, convened colloquia in Botswana, Malawi, Zambia and Zimbabwe to encourage discussion on the role of the judiciary in achieving Goal 16. This publication seeks to further broaden these discussions so that the achievement of Goal 16 moves from the conceptual to impactful initiatives.

Target 16.3 of Goal 16 strives to **promote the rule of law** at national and international levels. The papers of Justice Masuku from the Namibia High Court, and Kaajal Ramjathan-Keogh and Angela Mudukuti from SALC reflect on the necessity of judicial independence to ensure the maintenance of rule of law.

Target 16.3 further seeks to **ensure equal access to justice for all**. Several authors contribute to this discussion:

Justice Sikwese from the Malawi High Court highlights the necessity to reform the composition of the bench itself and to develop mechanisms to address limitations to women’s access to the courts.

Chipo Nkhata, Johnson Jasson and Annabel Raw deal with the barriers to access to courts faced by persons with disability. Brigadier Siachitema from SALC focuses on the challenges faced by rural women to access justice in a context of rampant land dispossession in Zambia.

Annabel Raw from SALC looks specifically at the barriers faced by vulnerable groups in obtaining redress for healthcare discrimination. She makes the point that the issue of access to justice extends beyond the courts and includes a range of complaints mechanisms.

A number of authors focus on the specific problems around **access to criminal justice**. Dr Elizabeth Macharia-Mokobi from the University of Botswana considers the arguments in favour and against the death penalty. Anderson Ngulube, Director of Legal Aid in Zambia and Justice Kamanga from the Malawi High Court look at the limitations in access to justice for accused persons in Zambia and Malawi respectively. Justice Ntaba and Justice Kalembere follow with a critical examination of the jurisdictional limits of magistrates’ courts in Malawi and the consequent limitations on access to justice, especially in rural areas. Finally, Chikondi Ngwira and Nyasha Chingore consider the imperative for courts to take into account the best interests

1 “Transforming our world: the 2030 Agenda for Sustainable Development” Resolution adopted by the General Assembly on 25 September 2015, A/RES/70/1.

of the child when sentencing care-givers in Malawi.

Target 16.5 of Goal 16 aims to substantially **reduce corruption and bribery**. In this respect, Justice Mzikamanda from the Malawi Supreme Court of Appeal considers strategies to reduce corruption within the judiciary, whilst Caroline James from SALC evaluates the role played by the courts in discouraging corruption in State institutions.

Target 16.9 of Goal 16 aims to **provide a legal identity for everyone**, including birth registration. Liesl Muller from Lawyers for Human Rights provides an overview of recent developments in the SADC region to end statelessness for children.

Target 16.10 of Goal 16 seeks to **ensure the public's access to information**. Mariya Badeva-Bright and Dr Oluwatoyin Badejogbin from AfricanLii explore the challenges in accessing law reports and legislation in Southern Africa and the imperative to improve such access in order to further the objectives under Goal 16. Mandala Mambulasa, a legal practitioner from Malawi, looks specifically at the access to information laws in Malawi.

Target 16.10 and target 16(b) of Goal 16 respectively emphasise the need to **protect fundamental freedoms** in accordance with national legislation and international agreements and to promote and **enforce non-discriminatory laws and policies**. Tashwill Esterhuizen and Brynne Guthrie discuss the recent Botswana Court of Appeal case on the right of persons to register an organisation that advocates for the rights of lesbian, gay, bisexual and transgender persons. The case is an important milestone in showing the ability of the courts to promote peaceful and inclusive societies. Justice Baruti from the Industrial Court in Botswana discusses the ambit of the prohibited grounds of discrimination in domestic law and argues that these grounds should be interpreted broadly in line with international law. Justice Nyirenda from the Malawi High Court assesses the recent Marriage, Divorce and Family Relations Act in Malawi and highlights the need for ongoing reflection to ensure that law reform processes do not perpetuate outdated ideas and values.

Target 16(a) of Goal 16 seeks to strengthen relevant national institutions to **prevent violence and combat terrorism and crime**. Professor Jeremy Sarkin cautions that law reform efforts aimed at responding to the threat of terrorism should not unjustifiably infringe on human rights including the right to freedom of expression.

The editors and authors of this timely publication hope you will enjoy reading these papers and that it will, through your actions, contribute to the achievement of Goal 16.

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