



**CONFERENCE REPORT:
ACHIEVING THE 2030 AGENDA AND AGENDA
2063: THE RULE OF LAW AS A DRIVER OF AFRICA'S
SUSTAINABLE DEVELOPMENT**



Creating a Culture of Justice
International Development Law Organization





EXECUTIVE SUMMARY

CONFERENCE REPORT: ACHIEVING THE 2030 AGENDA AND AGENDA 2063: THE RULE OF LAW AS A DRIVER OF AFRICA'S SUSTAINABLE DEVELOPMENT

Africa is a continent with enormous wealth and potential. It is home to many of the world's fastest growing economies and is experiencing rapid and profound transformation. Yet Africa continues to face significant development challenges, including deepening levels of poverty and inequality, dynamics of demographic trends, together with heightened vulnerability to climate change. Conflict, humanitarian crises, internal displacement and refugee flows present further challenges.

In May 2013, the African Union initiated its 50-year development action plan, Agenda 2063, which lays out the Pan-African vision in seven aspirations. The process of developing Agenda 2063 enabled the African Group at the United Nations to provide significant global leadership during the negotiations for the Post-2015 Development Agenda.

In September 2015, the United Nations General Assembly adopted the 2030 Agenda for Sustainable Development, which includes a set of 17 Sustainable Development Goals (SDGs) and 169 corresponding targets. The SDGs replaced the Millennium Development Goals (MDGs) and will guide global development priorities until 2030.

Importantly, both, Aspirations 3 and 4 of Agenda 2063, as well as SDG 16 of the 2030 Agenda, point to the rule of law and access to justice as drivers and outcomes of sustainable development. The rule of law is also of cross-cutting relevance to all development goals and aspirations, in terms of enabling participatory, accountable and equitable processes in the economic, social and environmental spheres.

In light of these efforts, IDLO and the Government of the United Republic of Tanzania co-hosted a Pan-African conference in Dar es Salaam on the theme 'Achieving the 2030 Agenda and Agenda 2063: The Rule of Law as a Driver of Africa's Sustainable Development'. On June 1 and 2, 2016 more than 100, mainly African participants from over 18 countries gathered, including Augustine Mahiga, Minister of Foreign Affairs and International Cooperation; Angellah J. Kairuki, Minister of State at the Office of the President; former Presidents Benjamin Mkapa and Jakaya Kikwete, Isaque Chande, Minister of Justice, Constitutional and Religious Affairs of Mozambique; Paulino Wanawilla Unango, Minister of Justice of South Sudan; Nanette Thomas, Minister of Political and Public Affairs of Sierra Leone; Harriette G. Badio, Deputy Minister of Justice for Economic Affairs of Liberia; Maryann Njau-Kimani, Secretary - Justice and Constitutional Affairs of Kenya; and, Albie Sachs, Former Judge at the Constitutional Court of South Africa.

The conference provided a multidisciplinary and inclusive platform for discussions, engaging a range of members of the judiciary; law and

development experts, practitioners and policy makers; academics and civil society leaders, as well as representatives of the international community and the private sector.

The two-day conference, which was made possible with the support of the Government of Italy, aimed to provide a platform to exchange knowledge, experience and good practice to further advance the rule of law and access to justice in Africa, integral to achieving sustainable development. Participants addressed Africa-specific rule of law challenges relevant to development within five thematic areas:

- Effective, accountable and inclusive institutions with a focus on the justice sector;
- Constitution-building and legal reform: strong foundations for sustainable development;
- Equality and empowerment through access to justice: a view on gender and health;
- Economic development through the rule of law; and
- Building partnerships for the future.

The conference concluded with consensus that an Africa-wide collaboration on strengthening the rule of law will play a key role in realizing global and regional development goals. Agreement was reached on specific action relating to several core areas, and to be executed in collaboration with IDLO and its larger Africa Initiative, which seeks to support the rule of law and development by:

- Generating greater awareness and political commitment;
- Exploring and initiating programming opportunities for concrete action;
- Encouraging evidence-based research and policy development on the issues; and
- Supporting and strengthening national and regional networks, partnerships and legal institutions.

SUMMARY OF PROCEEDINGS



“With the rule of law now at the heart of development goals and aspirations, it is timely to explore its vast potential as an enabler of other goals on the continent.” – Irene Khan

After the adoption of Agenda 2063, Africa reaffirmed its commitment to sustainable development through the 2030 Agenda. Many of the shared

challenges and preconditions for the realization of the 2030 Agenda and Agenda 2063, including transformative leadership, equitable access to justice, peace and security, stem from a weak rule of law.

The first session set the scene for the conference and triggered discussion on the importance of the rule of law in the development context in such spheres as gender equality, customary justice, equitable access to healthcare, and peace and security.

Participants shared their perspectives on Africa's development priorities in the context of current political, social and economic challenges, as well as the ambitions of the global and regional development agendas. The issue of limited financial resources for the implementation of the 2030 Agenda and Agenda 2063 raised concern. It was observed that funds, far exceeding amounts received as development aid, are lost to the Continent annually. It was highlighted that such funds, lost through illegal means, could be directed for initiatives around the achievement of achieve the development goals. The participants shared consensus around meeting the gaps in funding: effective and efficient domestic resource mobilization to be prioritized by political leaders, with a focus on preventing and recovering funds lost through corruption and tax evasion.

The rule of law being an indispensable and integral element for development in Africa was recognized by all. Effective political leadership and the need for commitments and resources for achieving the SDGs, took place center place at the discussions. Participants agreed that unless a culture of justice and the rule of law were deeply embedded within government and society, equitable, inclusive and sustainable development would be unattainable.

EFFECTIVE,
ACCOUNTABLE AND
INCLUSIVE
INSTITUTIONS WITH A
FOCUS ON THE JUSTICE
SECTOR



“The law is seamless and people should not have to choose between customary and formal law.” – Albie Sachs

An independent judiciary is essential for equitable, transparent and inclusive development. While there has been substantial progress in establishing

effective justice institutions, many African countries continue to face significant challenges.

In this session, participants explored the role of the judiciary in ensuring transparent and accountable, as well as in building peace in fragile, transitional and post-conflict countries. Participants discussed challenges, opportunities and good practices for ensuring the independence of the judiciary, sustaining political will for constitutional and legal reforms, ensuring support for capacity development and promoting an enhanced role for civil society organizations and oversight mechanisms. The role of the courts in advancing the economic and social goals that underlie the 2030 Agenda and Agenda 2063 was also discussed.

Discussions focused on how to ensure and balance judicial independence and accountability and how to guarantee protection through the rule of law. Participants identified the roles of judicial service commissions and Offices of the Chief Justice, need for financial independence of the judiciary, impartiality and accountability of judges as being particularly relevant to upholding the rule of law. Good practices were shared, specifically on the power of the rule of law and the tangible difference it can make to benefit citizens, including the examples from post-Apartheid South Africa, where Presidents Nelson Mandela and Jacob Zuma respected the rulings against them by the highest court. Their stance solidified constitutional democracy in South Africa, and sent a strong message on the supremacy of law to South Africans and other African countries.

Across the continent, traditional and customary law is widely practiced. Participants raised the challenges around ensuring customary justice is consistent with the Constitution, relevant statutory laws and formal institutions of justice. The frequent inconsistency with international human rights standards was also highlighted and the participants called for efforts to align customary justice systems with international instruments.

It was noted that it would be beneficial to develop an African corpus of jurisprudence that would best match and reflect African particularities and serve African interests. Comparative resources like bench-books on specific areas of law, such as gender-based violence, that include cases from across Africa, would prove particularly useful to further unify jurisprudence and make it more equitable. There was widespread agreement that the availability of such resources are vital in building judicial capacity of judges and lawyers.

**EQUALITY AND
EMPOWERMENT
THROUGH ACCESS TO
JUSTICE: A VIEW ON
GENDER AND HEALTH**





“If you have strong transformative leadership, you will be able to lead in line with the Constitution and entrench good governance in Africa.”- H.E. Benjamin Mkapa

Since the 1990s, Africa has witnessed the adoption of an impressive number of new or revised constitutions, which contain most of the core principles and values of democracy, the rule of law, human rights and good governance, including the separation of powers and independence of the judiciary. Yet, it appears that much remains to be done to ensure that such constitutional changes lead to effective and accountable institutions capable of promoting inclusive social development and economic growth, and of empowering citizens to participate in public affairs and hold their governments to account.

In this session, participants explored good practices and challenges in constitutional and legal reform, as key drivers to achieve democracy and sustainable development throughout Africa. Participants also discussed the opportunities created through the 2030 Agenda and Agenda 2063, as well as the role of state institutions, the executive branch of government, the legal community and civil society in ensuring effective implementation of constitutions.

The discussion was dominated by the common understanding that constitutionalism is a question of good transformative leadership along with investment in the growth of the rule of law and good governance. Additionally, it was agreed, that the successful implementation of constitutions requires well-defined and established processes and practices, as well as courts upholding the supremacy of the constitution. Participants also pointed to the role of the Bar and Bar Associations, taking the view that the rule of law and constitutionalism cannot be realized in Africa unless independence of the legal profession is secured.

Discussants raised the role of ownership in the crafting and implementation of constitutions. Citizens are in a position to internalize and uphold constitutional values, thus making civic education fundamental to hold governments to account. Governments must place efforts on citizen engagement, particularly the involvement of young people, persons with disabilities and other marginalized groups in decision-making and opportunities. Furthermore, a key aspect of upholding the principles of constitutionalism is the conduct of free and fair elections, which can only be ensured through independent electoral commissions and courts. IDLO's assistance to electoral justice in Kenya was cited as an excellent contribution to strengthening the rule of law and contributing to a politically level playing field, which is indispensable to promoting and maintaining peace in society.



“Women in Africa are not dying because of poverty or disease, but because we have yet to realize that their lives matter.” - Leslie Ann Foster, Executive Director of Masimanyane Women's Support Centre

Access to justice is a matter of supply and demand: it involves both empowering people to seek it and establishing the mechanisms to deliver it. Whether as individuals, groups or communities, women, children, young people, migrants, ethnic and sexual minorities who suffer discrimination and exclusion often struggle to access justice and claim their rights. In this session, participants explored how legal empowerment strategies and access to justice can facilitate the attainment of two key aspects of the development agendas: gender equality and healthy lives for all.

Discussants acknowledged the significant steps taken by several African countries to address the gender gap through constitutions, laws and policies, and justice and security institutions. Yet, women and girls continue to remain victims of discrimination and gender-based violence, as formal and informal legal systems limit women's rights, hampering social and economic progress.

A central theme throughout the session was the prevalence and relevance of traditional and customary law and justice in Africa. Participants addressed both challenges and opportunities, and how they can be applied consistently in accordance with constitutional principles and values in providing appropriate access to justice.

There was undisputed consensus that African countries will not succeed in achieving the sustainable development goals if more than half of the population is left behind. Moving from the abstract to the substance and closing the gaps between the norms of gender equality and their acceptance and implementation is the responsibility of all: the state, society and the individual. Participants agreed that equipping women with the expertise in areas that addresses the political, social and economic barriers that continue to restrict women and girls' participation as equal partners in development, including land rights and gender based violence, is fundamental for ensuring the empowerment of women.

In the second part of the session, participants discussed how legally defined structures and processes can help to ensure better access to healthcare for marginalized and vulnerable communities. Africa's continued development is contingent on ensuring the good health of its population. While many countries have improved access to health services, recent health emergencies underline the need for strengthening public health systems as well as regional cooperation. Recognizing the relationship between the rule of law, access to justice and a well-functioning public health system is vital. Participants called for governments to allocate more resources to enhance tertiary education and training on aspects of health and the rule of law.



“Respect for the rule of law is a basic requirement for creating conditions that foster business development. It provides the security that protects individuals' basic political and human rights,” - Nanette Thomas,
Minister of Political and Public Affairs of Sierra Leone

In order to achieve the ambitious goals, set out in the 2030 Agenda and Agenda 2063, African countries will need to further harness and vitalize the national drivers of their economies, mobilize domestic resources, and promote

responsible entrepreneurship, creativity and innovation. Improving the business environment through efficient contract enforcement, effective alternate dispute resolution mechanisms and independent and transparent judicial decision-making in commercial and economic matters are all key to creating a climate conducive to trade and investment and the growth of small and medium enterprises (SMEs).

Participants in this session discussed the opportunities and challenges faced by African countries to develop institutional capacity and build enabling legal frameworks and appropriate mechanisms to encourage investment and economic opportunities. Particular emphasis was placed on the need to improve or adopt laws on public procurement and concession laws to provide stronger legal frameworks for enhanced transparency, accountability and involvement of concerned communities. More importantly, the need for enforcement of the relevant laws, was also addressed.

It was recognized that a growing economy is indispensable in driving development and achieving the SDGs in Africa. Regional cooperation and integration to foster investment and entrepreneurial activities was encouraged, as participants underlined the importance of safeguarding the Continent's economic interests. Examples were shared by countries that had successfully created better investment environments through improved business registration and licensing, and by establishing commercial courts to resolve business disputes.

Many participants agreed corruption is the greatest hindrance for local and foreign investment, and warned it had reached unprecedented levels in many countries. This does not only undermine the rule of law, democracy and human rights, but also slows sustainable economic growth. Corruption also impact domestic investments in sustainable development. Participants called for the dire need for honest and transformative leadership, as well as the upholding of the rule of law by the judiciary in relation to efforts at limiting illegal movement of money.

**BUILDING
PARTNERSHIPS FOR
THE FUTURE**



“Together Africa we can become a powerful force to reckon with.” - Nanette Thomas, Minister of Political and Public Affairs of Sierra Leone

Through interactive dialogue, the final session mapped out concrete initiatives for collaboration among African countries, and between them and international

partners, to take forward the key outcomes of the conference towards effective implementation of the 2030 Agenda and Agenda 2063. The participants shared their thoughts on the implementation of IDLO's Africa Initiative, as a follow-up to the conference.

All African countries share challenges, though to a different degree and intensity, and the participants highlighted the relevance and timeliness of the conference. The importance of regional cooperation was stressed, for successful implementation of the 2030 Agenda and Agenda 2063. It was stressed that the needs of the people on the continent are immediate and should not be forgotten in the implementation process of the forward looking agendas.

Strengthening the rule of law was identified as being imperative to establishing a foundation on which to promote sustainable development. Access to justice was also recognized as a critical factor in breaking the cycle of poverty and addressing inequality. It was agreed that realization of a culture of rule of law will require good governance, supported through transparent, accountable and corruption free governments and judiciaries.

The conference ended with a call for concrete action on:

- Improving the capacity of the judicial system and knowledge of jurisprudence in Africa, by supporting the creation of an Africa-wide jurisprudence database, to help national jurisdictions learn from each other and build a corpus of African jurisprudence;
- Improving access to justice on the continent by establishing a network to share experiences on legal aid and a corresponding set of indicators by which Africans can measure progress on Aspiration 3 of Agenda 2063 and Goal 16 of the 2030 Agenda;
- Building the capacity of African institutions to tackle investment issues and barriers to development, including corruption starting with a multi-stakeholder discussion between government, business and civil society actors; and
- Recognizing the need to engage with informal and customary systems of justice as one of the main means of accessing justice in Africa and treating them as dynamic systems that match changes in society and that are consistent with fundamental values and principles of constitutions.



For further information on IDLO's Africa Initiative please visit www.idlo.int

The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.

