Background Paper

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SDGs and Justice

SDG 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*

1. Introduction

Progress is neither automatic nor inevitable. It is the product of enhanced capabilities of individuals coming together in a functioning society. With the right policies and institutional and societal support much can be achieved.

Like the MDGs before, the 2030 development agenda (SDGs) represents a global framework for the acceleration of human progress. With a focus on people's lives, this agenda outlines the globally agreed challenges for nations and society at large to address over a 15 year period. At the core of the 2030 agenda of course is the search for justice. Eliminating poverty, reducing inequality, and addressing discrimination, are all essential for a more just and sustainable society.

SDG 16 in particular is about access to justice and the need for accountable institutions. But the analytical narrative that can help policy makers and the public at large to achieve results and understand how the pursuit of justice profoundly influences the achievement of the SDGs across the board is often lacking.

This note seeks to contribute to that narrative, with a focus on SDG goal 16, and presents the argument that we have to shift gears in our understanding of justice as we seek to deliver on the SDGs and the steps now needed to accelerate the implementation of the SDGs across the board.

It draws upon human development thinking, and positions the conversation in the context of the debate about fair societies and equity that John Rawls' *A Theory of Justice* (1971) represents and a narrative focusing on remediable injustices and the

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value of public reasoning in addressing them that drive Amartya Sen's *The Idea of Justice* (2009).

2. Global frameworks and national action

In 2000, at the United Nations, the Millennium Declaration and the eight MDGs framework established a global reference point that enabled countries, particularly developing counties, to make a concerted push to meet the MDG goals over a 15-year period.

And, in the main, they did (McArthur and Rasmussen, 2017). Remarkably, the goal of halving poverty by 2015 was met a few years in advance, with much progress on most of the education and health goals. Especially in both Asia and Africa.

An important vehicle for maintaining focus on the MDGs at the national and global levels was the preparation of annual national progress reports, particularly by developing countries with the support of the UN system.

But concerns about climate change and unsustainable carbon emissions not only remained but over the years have intensified.

The 2030 Development Agenda with its 15 goals is more comprehensive, rights-based and more focused on the issues of sustainability. It is meant to be universal, that is applicable to all countries, and it explicitly recognizes that the three dimensions of life-economic, social and the environment- are all profoundly interconnected. And, it seeks to bring together the government, the civil society and private sector, all playing critical roles in a unified vision.

Building on the outcome of the Rio +20 Conference in 2012, it accepts the notion that sustainability includes an obligation to future generations and incorporates the concept of rights and inter-generational justice with sustainability defined as "development that meets the needs of the present without reducing the ability of future generations to meet their own needs" (HDR, 2014)

More so than the MDGs, public reasoning played an important role in the preparation of the 2030 Agenda. It was very much a product of a wide-ranging public engagement of millions of voices across the world (governments, non-governmental organizations, universities, engaged citizens and experts). Even if the process itself was messy at times, this represents a considerable achievement for the United Nations. It was an extraordinary global conversation, with agreement reached on specific goals and in the process anchored deep commitment to their achievement across the world (UNDP, 2013). This, despite much criticism about the goals being too numerous, that they are not well framed and worries about many of the indicators (Mair, Jones and Ward, 2018).

The UN Secretary General has made 2019 a priority year to review progress on climate change and the 2030 Agenda. The Secretary General underlined that "the 2030 Agenda is our roadmap and its goals and targets are tools to get there". The theme of the year (and the review) is 'empowering people and ensuring inclusiveness and equality". The review which will be discussed at the High Level Political Forum in July 2019 and then later at the September UN Summit is expected to also bring together the findings of the Voluntary National Reviews of the SDGs, prepared by countries for the purpose of sharing experiences, with a view to accelerating the implementation of the 2030 agenda (UN, 2019).

3. Justice, fairness and human development

The first global Human Development Report (1990) started with an evocative sentence, "People are the real wealth of nations' and introduced the Human Development Index (HDI) as an important measure of the progress in people's lives.

While the HDI captures more of the quality of life than GDP, like all summary measures it falls short in sufficiently capturing the richness of people's lives or their yearning for the freedoms that people have reason to value. These freedoms in turn are profoundly connected to notions of fairness and justice, whether they have resonance in the context of a family, the community, or at the level of a nation and indeed globally.

Fairness and justice are ideas that are deeply embedded in human beings. In fact some argue, even among animals. Children at a very young age instinctively know about fairness and have an acute aversion to 'manifest injustice' (Sen, 2009).

While terms like justice or fairness are difficult to pin down concretely, it is often the profound sense of injustice that drives individuals and communities to assert their rights and publicly push back on manifest injustices. Justice is often linked to the notion of fairness. Poverty, abuse of human rights, inadequate representation, are societal circumstances that are identified by most observers as unfair and unjust. It is no surprise that Goal no 1 of the SDGs is in fact the elimination of poverty.

Others argue that that much of the conflict around the world is driven by the perceived sense of 'unjustness' (HDR 2014). It has been further posited that a sense of injustice, real or otherwise, is often the source of serious economic, political and social problems. Conversely, addressing injustices can lead to more sustainable societies. This recognition of actual and perceptional complexity is important as it brings out the importance of public reasoning.

SDGs and Justice across the board

The UN has defined 12 targets and 23 indicators for SDG 16. Target 16.3 explicitly recognizes that access to justice advances SDG priorities across the board. Yet, only those indicators that measure access to justice in criminal matters have been included[2]. The search for justice goes far beyond legal concerns and the criminal justice infrastructure. It is rooted in discrimination, poverty and inadequate representation. Often it's the poor who bear the brunt of legal problems. In most countries, the most frequent legal problems relate to civil issues, in the areas of housing, jobs and access to social benefits (Chapman and Islam, 2018)

The comprehensives of the SDGs (and perhaps some of the shortcomings) has led many to cluster the various goals where are more linked to a larger concern. For instance the Pathfinders group, formed of member states, international organizations, global partnerships and other partners, has developed a road map to cover all of 2030 Agenda targets for peaceful, just and inclusive societies (terming it as SDG 16 plus). This roadmap in turn is to be presented to the High Level Political Forum in 2019 in line with the theme of empowering people and promoting inclusiveness.

On reporting there are also initiatives like The Global Alliance for Reporting Progress on Peaceful, Just and Inclusive Societies that promote a coordinating platform for UN Member States, private sector, civil society, and international entities to work together. The Alliance provide resources for direct support to Member States and peer-to-peer learning and networks for quality reporting initiatives (RELX SDG Resource Centre:sdgresources.relx.com).[3]

Still others have attempted to cluster the various goals and targets that are related to justice concerns, even if the term is defined somewhat narrowly. By this reckoning, at least seven SDG targets specifically refer to persons with disabilities; an additional six targets refer to vulnerable situations, while seven targets are universal and two refer to non-discrimination.

All these approaches represent a search for greater coherence and a framework that inspires coordinated action, especially given the comprehensives of the 2030 agenda.

This paper is an attempt to dig deeper into what represents a fair and just society as a way to tease out elements that can help in developing a coherent approach to advancing justice within the 2030 agenda.

4. The here and now: aspirations vs. redeemable injustices

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[2] Notwithstanding this, there are civil society led attempts like The World Justice Project to collect survey information for the purpose of developing a public, 44 country cross-country dataset on access to civil justice.
[3] Co-facilitated by UNDP, UNESCO, UNODC and UNHCR.

The SDGs represents a transformational agenda. The document seeks to be both aspirational and a roadmap for action. With phrases like "leave no one behind" that search and perhaps the document itself is mostly aspirational in intent, even if there are concrete indicators highlighting elements of the path along the way. But, to paraphrase management literature, it does not embody a 'theory of change". How do we transform societies and meet the goals?

The aspiration for a fair, just society is a profound sentiment. It influences behaviour, it galvanizes political movements and draws adherents to religions. It can bring together a disparate range of people for a common purpose. This pursuit for a fairer, more just world underlined the preparation of the 2030 Agenda.

But does that aspirational language now help us sufficiently in reaching the SDG goals?

What makes a society just?

Dominant theories of justice associated with Enlightenment thinkers such as Locke, Rousseau and Kant were much concerned with the search for 'perfectly just institutions' (HDR, 2013).

This century probably the most influential voice in political philosophy has been that of John Rawls (1971, 1985). Amartya Sen (2009) in his own magisterial work on justice acknowledges his debt to Rawls describing him as the thinker who put "the whole subject of the theory of justice" on a " firm footing" (p. 53, Sen, 2009). Sen's work on the other hand however focuses on clarifying "how we can proceed to address questions of enhancing justice and removing injustice".

Rawls work on justice sought to develop principles for a just society and to address the problem of redistributive justice. Refined further in his 1985 essay "*Justice as Fairness*", Rawls claims that 'certain' rights and freedoms are more important or 'basic' than others. Two fundamental principles are advanced: one on *liberty* and other on *equality* that together should guarantee a just and morally acceptable society. [4]

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[4] Two principles are elaborated: the liberty principle: To illustrate, 'personal' property constitutes a basic liberty, but there is no absolute right to unlimited private property. As basic liberties, these rights are inalienable. Principles for a society are just when chosen by representative citizens placed within 'fair conditions'; His second principle: the equality principle is an essential component in his perspective of Justice as Fairness and lays the basis for distributive justice. In this construct, the individual should not only have the 'right to opportunities' but also an 'effective' equal chance as another of similar natural ability…..which implies not only efforts to eliminate discrimination but also the need to ensure adequate representation.

Taking issue with this search of the ideal, Sen's work on justice (2009) focuses more on the here and now and in favour of comparative approaches that concentrate, "on the actual behaviour of people, rather than presuming compliance by all with ideal behaviour".

In some ways, both approaches are important, and perhaps complementary. Whereas, the search for a just world anchored the preparation of the 2030 development agenda and went on to reinforce among people at large the aspirational search for justice, the Sen approach has much value in developing a narrative that can help in the delivery of the SDGs and the removal of actual injustices.

5. *Delivering on the SDGs: Human Development principles for a more just, fairer world*

Principles are important. They anchor our thinking and form the basis for policy formation.

Principle 1: Everyone has an equal right to their life claims

The basic idea of human development is about promoting equal life chances for all, based on the Kantian principle that all people are of equal value, as also enshrined in the UN Charter. It is based on the universalism of life claims. And promotes the notion that all humans need to be empowered to live lives they value (HDR 2014).

Both economic and social polices influence people's life chances and capabilities. Pursuing the broader goals of equity and justice also reinforce social competences and deepen social cohesion[5].

Universalism implies equal access to opportunities to build core capabilities. Universal access for instance to basic social services such as education, health, water supply and sanitation and public safety enhances resilience and social solidarity.

How far policies and responsive systems of governance succeed in advancing the prospects of most members of society will determine whether social solidarity is enhanced and fragmentation and stigma avoided.

This is very much the thread that runs through the 2030 Agenda.

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[5] The concept of capabilities profoundly rests at the individual level. However, social institutions and social competences more broadly are critically important in determining individual capabilities since they have a direct impact on them. Most individual capabilities could not exist without social competences. The latter also profoundly influence social cohesion and solidarity (HDR 2014).

If we accept the search for remediable injustice, dealing with injustices that exist in the here and now, there is then a need for a second principle that recognizes that social context matters and maps out the social distance that people start from in their pursuit of fulfilling lives.

Such a principle seeks to go beyond idealized behaviour and situations and calls for:

Principle 2: *Unequal attention in favour of the poor and disadvantaged*

The first principle as above is rooted in the idea of universalism. It recognizes that all individuals are equally valuable and are entitled to protection and support. So there has to be a further acceptance that those who are most exposed to risks and threats, for instance children or people living with disabilities, may require additional support to ensure their life chances are equal to others.

Equal consideration for all may demand unequal treatment in favour of the poor and the disadvantaged. It is not enough to develop idealized systems of justice. Extra effort may be needed to address the challenges facing the poor for instance in accessing justice.

More generally, the concerns of equity and social justice require a broader framework that starts from individual well-being and include a broad national conversation to ensure that the most excluded can exercise their human agency more fully. All policies are a means to an end, not ends in themselves. Their justification lies in their influence on the lives of people.

Social welfare therefore has to be defined in terms of well being of individuals and their families, not in terms of macro-economic aggregates such as growth, inflation or even employment. Democratic support then becomes necessary to provide legitimacy to the measures needed for macro-economic stability and growth. Who gains and who loses when policies are designed or implemented has to become part of the national conversation (Atkinson, 2012).

National budgets for instance are rarely pro-poor or anti-discrimination. Worse, they may not be efficient either. For instance, most countries provide more funds to people as they get older, instead of fully supporting probably the most critical period of our lives, from 0-3 years of age. Often, it appears easier to subsidize the rich rather than the poor (HDR 2014).

And, there are broader factors to take into account as well.

SDG 16 highlights in different ways the pressing need to reduce violence. Take the case of homicide rates. Comparing city data, it turns out Calcutta does better than richer cities like Tokyo or London. While debates continue, researchers point to the higher preponderance of public goods (public education, public transport shared by

the poor and the middle class) and a focus on diverse neighbourhoods (with rich and the poor sharing the same physical space and an absence of gated communities) (Malik, 2012).

Or, the justice sector itself. Much of the arrangements in place reflect idealized systems of formal justice (law courts, rules of evidence, policing, etc.), which in the end only help a small fraction of the people. In Pakistan for instance there are over 1.8 million cases pending in the courts, with many of the cases being reviewed over decades of legal action. Anachronisms like judges taking long holidays over the summer remain in place (in the colonial period English barristers and judges needed to go back home to visit) (Dawn, January 21, 2018). A stable, predictable rule of law may help many but a justice system as organized in many countries tends to lock out the poor and the disadvantaged.

6. Revitalizing the SDGs and Goal no 16.

   a. *localizing the SDGs: Identifying and removing glaring injustices*

There is considerable variation even among G-20 countries regarding the institutionalization of the SDGs. In countries like Mexico and Brazil, political leadership appears committed to SDG strategies and implementation action incorporated in the planning processes of those countries. In other countries however there seems little interest in developing country plans to implement the SDGs. In the UK, while SDG goals are well articulated at the institutional level, the lead agency on SDGs in the government is DFID, the nation's aid agency, implying that the focus is more on global action-to help developing countries achieve the SDGs.

SDGs require localization. Country circumstances vary and they need to be taken into account when determining which injustices are potentially remediable and which require priority action. Poverty incidence may be higher in some countries than others. In South Asia and Africa, poverty rates and the number of the poor are among the highest in the world. In Latin America, inequality levels are particularly high.

   b. *public reasoning and the SDGs*

But determining priorities requires a national conversation. While at the technical level, the Voluntary National Reviews could be further strengthened through better indicators and better methodologies, there is little provision or encouragement in the SDGs framework document itself for public reasoning and dialogue at the country level for governments and civil society to settle on the pressing priorities of the day. This is particularly important in defining action plans and policies to deliver on   the   SDGs.

Like the ways the 2030 Agenda came into existence, through extensive consultation and dialogue, it is time to raise the profile of the SDGs at the country level. Promoting broad engagement, building consensus around key priorities through reasoning and voice represents a missing gap in the current approach to the 2030 Agenda.

A critical step in that process is re-energizing the debate about the necessary policies and actions to deliver on the SDGs and improving the lives of people at the country level. SDGs need to have a political bite. Failure to achieve them should have consequences. Settling on key principles becomes necessary to guide thinking and policy, and to foster a renewed commitment to put the practical concerns of people first and foremost in the design and implementation of policies.

And reporting. The Voluntary National Reviews have the potential for becoming more than an exercise in stocktaking. They can become the summary of the national policies and actions taken to accelerate the implementation of the SDGs, with a focus on what works and what does not.

The fact remains that while there are many examples of micro successes around the world, there is widespread worry of a macro-failure in the implementation of both the Paris agreement and the 2030 agenda (Kharas, McArthur, Rasmussen, Brookings, 2018). Speaking on climate change, the UN Secretary General underlined in his statement to the UN Summit in September 2018, " Let here be no doubt about the urgency of the crises" and that "what we still lack –even after the Paris Agreement- is the leadership and the ambition to do what is needed". The world is just not on track either on the Paris agreement or the 2030 Agenda.

Our task now, and through this discussion about justice and equity, is to lay the analytical basis to be ambitious and help accelerate the implementation of these global frameworks. The UN and other relevant international agencies have a critical role to play here, in helping countries particularly those still developing, to share experiences, and to support the design of transformative policies and programmes.

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