

SUSTAINABLE DEVELOPMENT GOALS

AND THE LAW



UNIVERSITY OF
LINCOLN

School of Law

College of Social Science

Briefing Note

June 2018

Sustainable Development Goals & the Law

Professor Duncan French
Professor of International Law,
University of Lincoln

and

Professor Louis Kotze,
Professor of Law, North-West University,
South Africa & Marie-Curie Fellow, University
of Lincoln

Key Points

- This briefing note sets out recent work of the Centre for Environmental Law and Justice at the University of Lincoln on the Sustainable Development Goals (“Global Goals” or SDGs).
- As researchers we argue that the political, social and environmental aims of the SDGs are unachievable without the effective contribution of law.
- As a centre we look to examine the key challenges in the implementation of the Global Goals and how existing law can act as both a facilitator and a barrier to change.

This note gives a summary of:

- The contribution of law to the SDGs
- The importance of human rights and the rule of law to the achievement of the SDGs
- The significance of well-defined and enforced legal rules in matters of global development

The United Nations’ Sustainable Development Goals (SDGs) first established in 2015 are a fundamental transformation in the international community’s commitment to global development. The SDGs, or “Global Goals” as they are more popularly known, promote a global vision of international development that is both socially and economically just whilst acknowledging environmental considerations.

The 17 Global Goals cover such objectives as eradication of poverty, zero hunger, improving health and education, as well as goals on sustainable cities, climate change, and gender equality. There is also a specific goal, which focuses on access to justice and the rule of law, which importantly highlights the centrality of the role of legal certainty in achieving the Goals.

Law & SDGs

This briefing note highlights the crucial role international and national law will play if the Goals are ever to be achieved. Human rights, and other branches of law including environmental law, corporate and private law, local government regulation and transnational law, as well as soft law and indigenous legal systems will all play a role in achieving the Goals.

The relationship between the law and the Goals is a complex one. Although the Goals are not binding in a traditional sense, many of the Goals (and certainly some of the targets set by the UN to achieve the Goals) correspond with present legal and political obligations. Conversely, there are examples of where the Goals are not as ambitious or deviate from current law and policies.

In practice, the Goals are political objectives that will, in many cases, not be achieved without the adoption of the necessary rules or the prohibition of harmful activities.

New regulations will therefore not only need to be context- and country-specific but will need to include a supportive institutional framework, have an effective redress mechanism and, in a large majority of cases, be complemented - and not be undermined - by provisions in private contracts.

Human Rights & SDGs

The relationship between human rights and the Global Goals is particularly important. There is significant overlap between human rights and the SDGs, and yet many of the Goals fall short of the standards set in human rights. Goal 5 on gender equality, for instance, is noticeably weaker than corresponding human rights protection. Moreover, on some issues, such as LGBT+ rights, the Goals say nothing at all.

Whilst the UN has sought to present the SDGs and human rights as mutually compatible, how such Goals (and indeed the corresponding human rights) are interpreted and implemented at an international and domestic levels, in policy, legislation and in judicial decisions, is immensely significant. The connections between the Goals and human rights will need to be strengthened if their achievement is to be made mutually supportive of wider legal and political objectives.

Legal Challenges

Nevertheless, there are more critical questions around the implementation of Goals through law. To say that law can implement the Goals says little about how law can be a hindrance to the achievement of global development, and that there is often little movement against the most entrenched political and economic interests.

Within the Goals themselves there are some notable “gaps”. They say, for instance, little about tax evasion, the regulation of multinational corporations or the prohibition of those activities destructive of the global environment. So not only must law be used to implement the Goals, it must overtime begin to tackle these and other key challenges if real progress is to be made. Ultimately, law must be used effectively, transparently and fairly.

Rule of Law & SDGs

Of particular importance is Goal 16 on the rule of law, which recognises the importance of access to justice, inclusive and participatory decision-making, the tackling of corruption, the strengthening of national institutions to combat crime and terrorism, and the adoption of non-discriminatory laws.

Previously missing in the debate, it is now essential that the rule of law is viewed as central to the achievement of global and national development.

Key Actions

There are three actions that policy-makers, lawyers and civil society must take to ensure effective law in the implementation of the Goals.

First, States must review their laws to identify weaknesses in present regulation and potential ways to strengthen the law. This is particularly the case as regards those issues where there are legal “gaps”.

Second, in creating new law or amending pre-existing rules, such law must be effective, transparent and inclusive, drafted after having consulted all sectors of society, and is subject to review and is sufficiently resourced to achieve its objectives.

Third, there must be institutional respect for the rule of law and human rights, including appropriate institutions and dispute settlement mechanisms.

Law will not achieve development by itself but it is an important part of the “toolkit” to implement long-lasting change.

Conclusion

Well-designed, inclusive and effective laws will be central to the achievement of the Sustainable Development Goals. Respecting and spreading the rule of law and human rights will be central to the attainment of the Goals. This will only be achieved by ensuring institutions have transparent and inclusive legal processes and effective dispute settlement mechanisms

Further Resources and Discussion:

Duncan French and Louis Kotzé (eds.),
Sustainable Development Goals: Law, Theory &
Implementation (Edward Elgar, 2018) Sustainable
Development Knowledge Platform ([https://
sustainabledevelopment.un.org/sdgs](https://sustainabledevelopment.un.org/sdgs))