



POLICY BRIEF

‘Rule of law washing’ and the Sustainable Development Goals

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At the recent UN summit in New York, countries made a pledge for renewed efforts to strengthen their work to push on and build on the initial progress of lead countries’ progress on SDG 16. Different processes are named as acceleration action or justice innovation for reducing X and increasing Y. There is also a global call for a decade of action for implementing the Sustainable Development Goals (SDGs).

But there is a real risk that the word clouds and numbers unintentionally hide the real challenge at hand – the imperative of strengthening institutions that actually respect the rule of law most of the time and in most of the cases. And not just sometimes, and in relation to specific cases. This brief takes a critical look at the state of play of the 2030 Agenda for Sustainable Development, and in particular SDG16 where the rule of law is to be found. It reviews recent progress on SDG16.3 (access to justice and the rule of law), and observes a worrying trend; countries rally around SDG16 but many use the opportunity for ‘rule of law washing’. They report progress on access to justice but fall short on the rule of law as a principle of governance and as a real check-and-balance on arbitrary power.

It does not have to be like this, and there is momentum for tackling the problem of rule of law washing more head-on. This brief suggests five steps for doing so, concentrating on the rule of law principles of effectiveness, accountability and transparency to lead the way.



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The streetlight effect

The 2030 Agenda is the rallying point and for the most serious challenges countries are facing today.

Underpinning the whole framework is the assumption that there are capable, effective, transparent and fair institutions that can act as the bedrock for progress on sustainable development. In fact, the role of institutions, and of governance more broadly, was deemed so important that it became a separate goal in the 2030 Agenda framework in the form of SDG16, *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

It is not the case today that most people live in countries where institutions are effective, accountable and inclusive. A recent report estimates that about 70 per cent of the world's population live in countries where there are significant access to justice problems.² Going beyond unmet access to justice needs, another number to put the challenges in perspective shows that roughly one third of the global population live in countries experiencing a wave of autocratisation, and the number rises drastically if we also include people living in 'established' autocratic countries.³

The recent flurry of activities on SDG16, leading up to the UN General Assembly opening and the SDG Summit in September 2019, was led by an impressive 'armada' of states, organisations, non-governmental organisations and academic centres.⁴ The concerted effort, and the multi-stakeholder approach, were very successful in putting the spotlight on SDG16.3, *Promote the rule of law at the national and international levels and ensure equal access to justice for all*. Yet, it is a narrow spotlight that relegates the rule of law to a sub-field under access to justice.⁵

Here, the streetlight effect comes to mind. A person looks for their car keys that they have just dropped, but they only look in the area revealed by the streetlight and nowhere else. It is about observational bias, but also a form of selection bias in the sense that we tend to favour the path of least resistance. The indicators for SDG16.3 are but two; "the proportion of victims of violence in the previous 12 months who reported their victimisation to competent authorities" and "unsentenced detainees as a proportion of overall prison population". They are a far cry from the rule of law as a principle of governance, and the data you get from them say very little about the rule of law.

Instead, it is in SDG16.6 where we find a target with indicators that underscore the importance of the rule of law as a constitutional dimension of governance through its focus on effectiveness, accountability and transparency at all levels of state institutions. In the practical goals and targets, SDG16.6 is treated as something that is not for lawyers and legal professionals primarily, but rather for accountants, auditors and democracy promoters. Dividing complex targets in this way is not only empirically incorrect but it also creates fertile ground for fragmented partnerships at a time when we should form stronger and broader coalitions around SDG16.⁶

The Pathfinders framework for SDG16 is one example of fragmentation, divided, as it is, into three areas – *peaceful, just and inclusive societies*. Access to justice and the rule of law are central ingredients of 'just societies', and in most cases, it is usually here where the rule of law

‘community’ is to be found. Yet, the key rule of law principles of effectiveness, accountability and transparency are – whether by accident or design – put into the separate category of inclusive societies where another knowledge community with little or no interconnectedness with the rule of law, caters to the needs and challenges of inclusivity.

There could not be a more foundational element for a just society than effective, accountable and transparent institutions at all levels, bringing together lawyers, legal professionals and rule of law promoters with auditors, accountants and democracy promoters. Yet, this has not come to pass.

Getting beyond the streetlight effect is no easy task, but a good starting point is to begin with politics and move away from the overused term ‘political will’. Instead, there is an imperative for focusing on how political settlements are dominated and the resultant management of power handled since the rule of law is essentially a political goal.⁷ In other words, it is the dynamic and oftentimes blurry interrelationships between a range of factors which determine and shape state development. These factors cannot be considered in isolation, as SDG16 cannot and should not be.

It is understandable that SDG16 is being boiled down to manageable ambitions, but diverging from the focus on institutional reform for the sake of manageability hands the initiative to autocrats that continue to hinder people from seeking fair and equitable justice outcomes.

Key Points

- ¶ While countries rally around SDG16, many use the opportunity for ‘rule of law washing’. They report progress on access to justice but fall short on the rule of law as a principle of governance and as a real check-and-balance on arbitrary power.
- ¶ Rule of law washing is not something that started with the 2030 Agenda and the SDGs. Unfortunately, though SDG16.3 has come to facilitate a more effective laundry service rather than a vehicle for a broader discussion on the ‘bigger picture’ rule of law.
- ¶ The first step for action is to start talking about the problem at hand in broader terms rather than traditional justice sector entry points such as criminal justice, and then working towards more coalitions and partnerships between the rule of law and other ‘communities’ such as democracy and open government. SDG16.6 is the springboard target with indicators that underscore the importance of the rule of law as a constitutional dimension of governance through its focus on effectiveness, accountability and transparency at all levels of state institutions.
- ¶ For a new decade, the rule of law community should engage for the immediate term to redefine and realign objectives but also be prepared for long-game thinking up to and beyond 2030.

Rule of law washing

A seminal report on access to justice, *Justice for All* has all the necessary data and makes a strong case for the important and overriding relevance of the relationship between justice and the 2030 Agenda. But it only hints at the larger problem. The report cites that 230 million people live in countries with a weak rule of law, essentially meaning countries where: “Their governments have limited control over their territory and are unable (or unwilling) to fulfil their basic duty to maintain the rule of law”.⁸ Yet this is only part of the story.

The report falls short on mentioning the number of people living under waves of autocratisation or full-blown authoritarian regimes. Similarly omitted in the report is the word democracy, and the word governance is only referred to opaquely as “new governance models”.⁹ For individuals in these countries, the rule of law is not out of order in a haphazardly way, but by design. Even if access to justice problems were radically improved, the root cause of the problem would remain.

The current focus and energy on access to justice is important, but it is also a lost opportunity in a number of ways. The weak indicators tied to access to justice *and* the rule of law may mean very little in terms of understanding progress or lack of progress in specific countries. Conversely though, it may mean more to the politicians and leaders with an interest to manage progress on the rule of law so that calls for more open, effective, accountable and inclusive governance does not threaten their grip on power.

In the current design, SDG16.3 risks becoming a “safe space for autocrats”.¹⁰ And as the historian and foreign policy commentator Robert Kagan put it, the re-emerging authoritarianism is “the greatest challenge facing the liberal democratic world – a profound, ideological, as well as strategic challenge”. Yet even more disconcerting is the dawning insight that, “We in the liberal world have yet to comprehend the magnitude and coherence of this challenge”.¹¹ Indeed, the authoritarian challenge has been absent in most of the latest conversations around access to justice and SDG16, even in the group of so-called rule of law actors, or the movers and shakers of the rule of law industry.

What has happened, and what is likely to continue to happen, is that countries willingly commit to enhance a technical narrative of access to justice in terms of pre-trial detentions and response rates to victims, but have no real interest in strengthening the rule of law or even a broader definition of justice. The same group of countries are also likely to say they want to advance on other indicators of SDG16, such as reducing the number of homicides and violence against children, ending trafficking, or decreasing societal violence. But they will not be as keen, in fact many are not – as has been well documented – to reach for indicators on open government, access to information and accountability at all levels of the state.

Voluntary National Reviews

Prior to Omar Hassan Ahmad al Bashir being ousted earlier this year, Sudan proudly participated in the Voluntary National Reviews (VNR) process of the SDGs. In 2018, the country provided detailed information on the harmonisation of polices, consultative processes and intricate feedback loops put in place in the Sudanese bureaucracy in its commitment to the SDGs,

including SDG16. Moreover, peace dividends such as eliminating violence, strengthening justice and good governance and empowering people and communities were put forward as an SDG accelerator.

In 2019, Azerbaijan was one of seven governments to share their second VNR. In a well-designed report, Azerbaijan gives a detailed account of actions taken under SDG16, specifically on access to justice and abuse, exploitation, trafficking and all forms of violence and torture against children.

On the rule of law, and on accountable and transparent institutions at all levels, Azerbaijan reports on new administrative courts, e-court initiatives and reforms of the criminal code. Numbers and statistics are also meticulously reported, bringing to mind Albert Einstein's saying that "not everything that counts can be counted, and not everything that can be counted counts". To say that Azerbaijan's voluntary reporting provides a stark contrast to descriptions from Freedom House or Human Rights Watch is an understatement.

The paradox of internationally committing to certain SDGs but pursuing policies at the national level to undermine the very same SDGs is noted by Saskia Brechenmacher at Carnegie Endowment for International Peace in the area of open government. This is called "open-washing".¹² In flanking fields, in the area of gender equality for example, we see similar approaches of 'women's rights washing'.

Other descriptions like 'managed democracy' or going 'beyond the ballot box' are all etiquettes describing difficult situations where democracy, good governance and openness and accountability are threatened due to a significant difference between rhetoric and practice. Manageability, once again, appears to be the catchword. Yet, we are losing sight of the herculean efforts of more liberal-minded countries in pushing through SDG16 during the negotiations in the lead-up to agreeing to the 2030 Agenda. Brave political decisions need to be better rewarded and built upon. There are never accidental outcomes when offering the many millions of people a way out of extreme conditions of injustice.

The washing dynamic is rarely talked about in the rule of law field. There is no equivalent use of taxonomies or descriptive labels in the rule of law community to help deal with the most challenging task of them all – how to encourage those who hold power to agree to play by the rules of the game, particularly in countries and settings where arbitrary, corrupt and repressive laws are an ideology, and not simply a byproduct of bad politics.¹⁴ So, countries can sign up to SDG16.3 and they do so with rule of law-washing in mind.

The Joint Statement by a group of member states in support of SDG16+ is a good illustration of an attempt to launder a poor rule of law track record. As joint statements go, it says almost all the right things. But it is being said by the Democratic Republic of Congo, Guatemala, Indonesia, Jordan, Qatar and Rwanda – all listed as not free or partially free by Freedom House. And the problem with freedom in each of these countries is that it is so by design rather than it falling unwittingly down the list of each government's priorities.

This type of state behaviour is not just a front, however. It is appealing for autocrats to minimise crime and allow people to solve disputes so that grievances do not build up to a threatening crisis or conflict. This means of governing is also appealing for controlling corruption, as you

cannot always be sure as the executive power that your policies will be respected.

Democrats and autocrats alike want their citizens to be generally safe and secure but for different reasons. The former see this as the litmus test of the social contract whereas the latter want to curry favour with the general public while also eliminating organised crime from destabilising their power base. It is therefore no surprise that in its 2017 VNR, Egypt speaks about the importance of reforms seeking to improve security and combating illegal migration.

Another example is Guatemala, which has seen a swift downward turn for democracy, rule of law and the civic space in recent years.¹⁵ The United Nations country office in Guatemala points to ‘busting silos’ and working towards greater integration of SDGs as a key feature of the need to build on how the goals interact with each other. Even though SDG16 is specifically mentioned, the reference to any rule of law principles is rather conspicuous by its absence. With such a clear message coming from the government in Guatemala – that it does not “need help from international organisations to come and tell us what to do”¹⁶ – it is imperative to rise above a skewed focus on certain targets of SDG16 that can be couched in terms of bolstering security and bringing down crime statistics.

The unilateral and premature closing of the International Commission against Impunity (CICIG) in early 2019 by President Morales, reveals the blatant nature of the attacks on the rule of law. Mr. Morales claimed that CICIG sowed “judicial terror” through “selective justice”, violating Guatemalan law and “overreaching its mandate”.¹⁷ However crudely put or delivered, this targeted criticism against CICIG was bizarrely dressed up as a concern for the rule of law.¹⁸

When principles of transparency, accountability and the legality of decision-making are being actively turned on their heads – and not being at least questioned in the process – then we are already deep into a disturbing cycle with little recourse to turn down the dial.

The principles of the rule of law – how dear are they?

Rule of law washing is not something that started with the 2030 Agenda and the SDGs. It takes many shapes and forms.¹⁹ One illustrative example is the UN web portal for all things on rule of law supported by the world organization, including a page with national practices on strengthening the rule of law. Austria, Chile, Finland and Switzerland are displayed as examples where good national practices have the potential for benchmarking a number of issues, from ombudsmen to anti-corruption strategies.

On the same page we also find Turkey and Qatar. These two countries are lauded for their initiatives in strengthening human rights and judicial independence. In the case of Qatar, there is a long list of achievements on issues ranging from freedom of opinion and other civil rights and liberties to judicial integrity. The amount of creativity needed for seeing Turkey and Qatar as leading examples on “strengthening the rule of law” is impressive. While the purported reforms look good on paper (but not quite, if you also note the number of reservations Qatar made when recently acceding to international treaties) the empirical world shows another side entirely.

This should not come as a surprise to anyone, but the blatant attempt at rule of law washing should raise the alarm and provoke a reaction in the rule of law community. Unfortunately though, SDG16, and in particular access to justice and rule of law in SDG16.3, facilitates a more effective laundry service considering that Qatar also stood behind the joint statement on SDG 16+.

Rule of law washing also pre-dates the SDGs by being manifested in long-term international assistance to legal and judicial reform. Palestine has a long track record of international aid to its legal and judicial sector from a large group of donors. In recent times, it has also signed a great number of international treaties. The support to Palestinian courts and other legal institutions most probably places it among the top recipients of international assistance to justice sector reform over the past few decades. However, the assistance has typically focused on building court houses and other infrastructure reforms in tandem with capacity building and training of judges and legal professionals.

A series of technocratic successes “undercut by politics”²⁰ is a blunt but perhaps not too unfair description of international rule of law reform in Palestine. It is symptomatic of the current flurry of activities around SDG16.3 that the long-term downward spiral for judicial independence in Palestine seems to have gone largely unnoticed from an SDG perspective. Despite the ongoing continued international support, it has now become an unfortunate example of a downward ‘acceleration action’, raising a number of questions in the process.

The recent and deep encroachment on the judicial system by the executive in flagrantly overturning the 2002 Judicial Authority Law follows the playbook for executive dominance over the judiciary.²¹ The specific targeting and removal of individual judges by further decrees setting a new retirement age – in certain cases, by name rather than age and without due process – are symptomatic of an autocratic tendency to forgo ordinary justice needs in favour of in-fighting and personal vendettas. This argument is reinforced by the confidence recorded in the justice sector by women and men with a whopping eighty-four percent, showing clearly that people desire transparent and accountable institutions to resolve their disputes.²²

Like dissolves like

There needs to be a better emphasis on understanding the nature of the problem where rule of law washing is a symptom. This requires tapping into the experience of other fields of practice – democracy promotion, open government, gender equality or transparency initiatives.

The bulk of experience in the rule of law promotion community, or rather the dominant strand of experience that influences policy and doctrine today, comes mainly from two settings: countries and bureaucracies more or less willing to commit to economic transitions, or countries and bureaucracies fatigued by civil war receiving international peacebuilding support.²³

The learning process from these two settings has been quite narrow and sometimes superficial. In the first category of experiences, learning has circled around legal transplants and common law versus continental law in terms of economic growth, and in the latter, peace versus justice and the importance of local context and ownership in post-war reforms of criminal justice

institutions. The learning that has been done in both settings does not generally prepare for the challenge we now face from growing authoritarianism, even if many have pointed out that the rule of law community is in need of knowledge management.²⁴

One key component in authoritarian countries, and the ongoing waves of autocratisation, is that reforms and actions that undermine the rule of law often tend to look like the rule of law. The effect is similar to the basic principle for solvents in chemistry, that like dissolves like. Political leaders see the benefits of strategies where the rule of law becomes soluble and undefinable. This development is in stark contrast to the threats to the rule of law that our community of practice know best – that is, warlords refusing to give up hard spoiled gains from the conflict or lessons learned from a heavy handed and centralised economy refusing or resisting liberalisation of the economic market games.

The threats we know and that have informed rule of law practice are without doubt complex and extremely difficult to work with, but they are for the most part quite open and visible, providing markers for spotting changes, resistance and main fault lines. The autocratic trend is in contrast a much harder read. Autocratic and post-authoritarian transitions have always presented a formidable challenge to the international community of rule of law promoters, and in particular for the UN.²⁵

The cases of Poland and Hungary have been highlighted ad nauseam, but they are representative of a subtle strategic shift at undermining the rule of law through changing and stripping down their respective legal frameworks. Where there was a type of ideological blunderbuss approach in previous populist surges to undermine the rule of law, now we see premeditated strategies being put to the test. The language stays the same, but the script is different. It is almost possible to talk about aspiring rule of law washers that are drawing inspiration from each other in regional policy arenas and even more worryingly, actively undoing all the good work done in prioritising the rule of law at the level of the UN over the past decades.

Yet, these two prominent EU members have received significant attention for good reason. The actions of the governing political parties in Poland and Hungary respectively have managed to effectively undermine rule of law advancement at a worrying speed, raising questions about the resilience of past achievements. That the rule of law is being challenged at the regional level within the EU framework is another reason why Poland and Hungary receive attention since they have prompted a strong counter reaction from EU institutions, with the latest response evident in the EU rule of law framework.

This type of organised action, coupled with mechanisms for sanctions, is far too political and not a realistic fit in the sprawling member state ecosystem of the UN, where loose consensus rather than political necessity carries the day. At the same time, it is similarly unrealistic that the EU would parade Hungary and Poland as good examples for the rule of law and constitutional protection at the national level as the UN does with Qatar and Turkey.

Paradoxically though, the SDGs and SDG16 in particular can still provide the way forward through its specific target 16.6 where ‘classic’ rule of law principles such as effectiveness, accountability and transparency are found – just outside the streetlight of the rule of law community.

What to do instead? Five steps to take

Accepting that the rule of law becomes more political and exponentially more vague in its expression the further we move from national and regional settings is one thing. It does not necessarily mean that hard-won negotiations like the SDG framework and SDG16 must follow the same pattern, however.

Since we are in the beginning of the decade for action on the SDGs, the rule of law community, as it were, now has the chance to set out a clear path towards strengthening the rule of law for the 'armada' of governments, non-governmental organisations and academic centres that recently and so successfully brought the spotlight on access to justice.

(1) The first step for action is to start talking about the problem at hand in broader terms rather than traditional justice sector entry points such as criminal justice. There needs to be a more nuanced debate on making better and more effective use of the term 'governance' as a vehicle for furthering rule of law objectives and outcomes. This is an argument for packaging, and ensuring that corruption (often referred to as a major threat to global security), transparency and accountability not only remain the purview of economists or compliance lawyers but that they are highlighted and addressed in conjunction with an overarching deficit in respecting the basic tenets of the rule of law.

(2) Rally around the rule of law as a principle of governance but recognise that the medium for this is not, or does not have to be, SDG 16.3. Simply because the streetlight effect and selection bias lead us to the most recognisable language and familiar terrain, we do not have to go there. SDG16.6 holds the potential and should be easily recognisable from a rule of law perspective with its emphasis on accountability, effectiveness and transparency. Without explicitly mentioning words and phrases such as *access to justice* and *the rule of law*, SDG16.6 is all about the capability of institutions to hold governments accountable and minimising arbitrary and wilful power. It is time to stop the hijack, and make a concerted push on institutions and getting the discussion back to the rule of law as a red thread for all of the 2030 Agenda. We can adjust the dial and make it more egalitarian, accountable and fair. SDG16 is essentially aspirational, and does not always need to be about data, and measuring indicators and reaching targets can be a bridge too far for a number of fragile states. Instead of setting unrealistic targets accompanied by complicated jargon, the emphasis should be on what is possible, or what is enough, considering the means and resources at the disposal of some of these states. It needs to be a relative and level playing field, but not without applying the necessary pressure when it matters on the part of the UN.

(3) Working towards more coalitions and partnerships with other 'communities' such as democracy and open government. This can be more than symbolic if planned strategically and aimed at quick wins. Impact is always greater when ideas are pooled and initiatives taken. Democracy, rule of law and open government experts have more in common than not and efforts can be made to synchronise events, double up on reports, share data and information and work towards specific cases that merit attention and aim at the space where policy paths merge. There are already some good examples, but more can be done.

(4) For a new decade, the rule of law community should engage for the term and be prepared for long-game thinking. The rule of law is inherently political and oftentimes highly contested in a large number of the countries where justice needs are greatest, yet its political undertones are often downplayed when it comes to global development policy and in the high stakes game to prevent autocratic backsliding. Setbacks and resistance should be expected, but there needs to be an end to efforts at separating law from politics. Strong coalitions of like-minded actors can play a key role in starting to plan and engage for complex social change where law may be an entry-point to change, not the end point.

(5) Come together and develop joint accelerated actions. Using SDG16.6 as an instrument for change, there is no shortage of potential joint actions across the board that can be catalysers for a more determined push on addressing shortfalls in institutional performance in different sectors. As a principle of governance, the rule of law is a central ingredient in ensuring equal opportunity and reducing inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation (Goal 10). The rule of law is a cornerstone of ensuring access for all to adequate, safe and affordable housing and basic services (Goal 11), which intersects with Goal 1 that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance and natural resources.²⁶ So far, there are only 153 registered joint actions on 16.3 on the UN website for sustainable development when this policy brief goes to print, and 158 on 16.6. It is not an all too healthy reflection of the implementation momentum if it is to be regarded as an instrument for advocacy and concerted action on sustainable development heading into the final straight.

References

1. It was a close call for rule of law to be completely cut from the SDGs all together. See, Arajärvi, Noora, “The Rule of Law in the 2030 Agenda”, *Hague Journal on the Rule of Law* 10(2) 2017.
2. Task force on Justice, *Justice for all. The Report of the Task Force on Justice*, 2019. See also, Manuel, Marcus, Manuel, Clare & Desai, Harsh, *Universal access to basic justice. Costing Sustainable Development Goal 16.3*, ODI Working paper 554, 2019.
3. Varieties of Democracy, *Democracy Facing Global Challenges*. V-Dem Annual Democracy Report 2019, 2019.
4. The Pathfinders for peaceful, just and inclusive societies is the best example of a multistakeholder approach on SDG 16 and 16.3 specifically. The Pathfinders are a group of 31 UN member states, international organisations, global partnerships, civil society and the private sector.
5. McIntosh, Lauren, *SDG 16: The rule of law at a crossroads*, ILAC Policy Brief 1, 2019.
6. This is not a problem only within SDG 16 but affecting other policy areas too. See, Brechenmacher, Saskia & Carothers, Thomas, *Defending Civic Space: Is the International Community Stuck?* Carnegie Endowment for International Peace, Working Paper 2019.
7. Whaites, Alan, *Achieving the impossible: Can we be SDG 16 believers?* GovNet Background Paper No 2, 2016.
8. Justice for All p. 34.
9. The problem of closing space appears in a later paper from the Pathfinders, Steven, David, *A Decade of Action for the SDG 16+. Where next after the SDG Summit?* November 13 2019.
10. McIntosh 2019.
11. Kagan, Robert, *The strongmen strike back*, Brookings, Policy Brief, Democracy and Disorder, 2019.

12. Brechenmacher, Saskia, *Opening Government, Closing Civil Space: Resolving the Paradox*, Carnegie Endowment for International Peace, 2019.
13. See, Cirstocea, Ioana et. al. *The Globalization of Gender: Knowledge, Mobilizations, Frameworks of Action*, Routledge, 2019.
14. Quinn, Shane, Sannerholm, Richard & Rabus, Andrea, *Responsive and responsible. Politically smart rule of law reform in conflict and fragile states*, Folke Bernadotte Academy, 2016.
15. See, *ILAC Rule of Law Assessment Report: Guatemala*, 2018.
16. International federation for human rights www.fidh.org/en/region/americas/guatemala/guatemala-justice-and-rule-of-law-at-a-crossroads.
17. Menchu, Sofia, "Guatemala not renewing mandate of U.N. anti-corruption body" Reuters, 31 August 2019.
18. IISD SDG Knowledge Hub sdg.iisd.org/news/no-accidental-outcomes-sdg-16-review-shows-need-for-policy
19. See, Zajac Sannerholm, Richard & Berquist, Lisen, "Norms, Legitimacy and Power: Rule of Law Assistance in Authoritarian Countries" in Whalgren, Peter (ed.) *Law and Development, Scandinavian Studies in Law*, Volume 60, 2015.
20. Brown, J. Nathan, *Time to Rethink, But Not Abandon, International Aid to Palestinians*, Carnegie Endowment for International Peace, Working Paper 2018.
21. Ekman, Mikael, *Be independent and do as you're told! Closing space for judges in Palestine*, ILAC Policy Brief 3, 2019.
22. See, Palestinian Central Bureau of Statistics, 2019, *Rule of Law and Access to Justice Survey* 2018.
23. See, Trubek, David, M. & Santos, Alvaro, *The New Law and Economic Development. A Critical Appraisal*, Cambridge University Press, 2006 for a review of economic transition and liberalisation. And for post-war transitions, see Stromseth, Jane, Wippman, David & Brooks, Rosa, *Can Might Make Rights? Building the Rule of Law After Military Interventions*, Cambridge University Press, 2006. There is of course a vibrant scholarship and learning processes from post-communist and authoritarian transitions too, but the policy implication from them is unfortunately less pronounced in the rule of law and donor community. See, Czarnota, Adam, Krygier, Martin & Sadurski, Wojciech (eds.) *Rethinking the Rule of Law after Communism*, Central European University Press, 2005; Ginsburg, Tom (ed.) *Constitutions in Authoritarian Regimes*, Cambridge University Press, 2013, and Ginsburg, Tom & Huq, Z. Aziz, *How to Save a Constitutional Democracy*, The University of Chicago Press, 2018.
24. Cohen, Elin, Fandl, J. Kevin, Perry-Kessarais, Amanda & Taylor, Veronica, "Truth and Consequences in Rule of Law Reform: Inferences, Attribution and Evaluation", *Hague Journal on the Rule of Law*, Vol 3 (1).
25. See, Kavanagh, Camino & Jones, Bruce, *Shaky Foundations. An Assessment of the UN's Rule of Law Support Agenda*, Center on International Cooperation, 2011.
26. Bergling, Per & Jin, Sophie, "The New Black on the Development Catwalk: Incorporating Rule of Law into the Sustainable Development Goals", *Washington International Law Journal*, vol. 24 (3) 2015.

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