



Policy Dialogue Report No: 52

“Leaving No-One Behind”: Strengthening Civil Society’s Role in the Implementation of Goal 16 of the UN 2030 Agenda for Sustainable Development



22 March 2016, Pretoria

INTRODUCTION

This workshop was co-convened by the Southern African Liaison Office (SALO), the National Alliance for the Development of Community Advice Offices (Nadcao) and African Monitor. Much of the interest around the SDGs for SALO has been on the positioning of the peace and security agenda. Based on lessons learned from the MDGs; addressing conflict is essential towards delivering on the SDGs. Similarly, effective and efficient access to justice will go a long way towards addressing conflicts.

This dialogue forms part of efforts to ensure that access to justice remains on the agenda of SDGs implementation. Opening the workshop, SALO's Research, Development and Coordination Manager, Dr Showers Mawowa identified central questions for the discussion, as follows:

- How can we ensure that the spirit of the Sustainable Development Goals as captured in the phrase "leaving no-one behind" is upheld in the implementation process?
- How do we ensure that no-one is left behind in the implementation of SDGs?
- How can we be as inclusive as possible, not only in regards to sharing the outcomes of the development goals, but also in terms of the process of implementing them?

Dr. Mawowa pointed out that the objective of the workshop was, firstly, to popularise and create awareness around Sustainable Development Goal 16 (which is about peace and access to justice) by highlighting its intersectionality with other Goals, and how this can be mainstreamed in the overall advocacy on SDGs. Secondly, the workshop sought to encourage participants to identify existing spaces for civil society organisations (CSOs), advocacy groups and community groups, among others, to ensure that access to justice remains on the political agenda. Thirdly, the workshop aimed to streamline and identify spaces for advocacy that exist through other global platforms such as the Open Government Partnership (OGP), the African Peer Review Mechanism (APRM) and the AU Agenda 2063.

SUMMARY OF PRESENTATIONS

PANEL DISCUSSION ONE

Thokozani Thusi, Chief Director for Public Participation and Social Dialogue at the Department of Public Service and Administration [DPSA].



Mr Thokozani Thusi delivered the keynote address on behalf of Deputy Minister Ayanda Dlodlo. Mr Thusi welcomed the dialogue platform, and noted that it comes at a time when South Africa (SA) is chairing the OGP; and that the government, together with civil society, has developed a 3rd National Action Plan for the OGP. This National Action Plan follows the adoption and endorsement of the OGP Declaration in support of the SDGs. In developing the National Action Plan, SA had to take into account the SDGs, especially Goal 16. Furthermore, South Africa is expected to undertake its Second Generation Review in the APRM. According to Mr Thusi, all of these processes present an opportunity.

Mr Thusi cited South Africa's constitution as providing a firm basis for access to justice and respect for civil, political and socio-economic rights. He argued that:

"In this regard, Goal 16 of the 2030 Agenda for Sustainable Development – the Goal on peace, justice and strong institutions – is intrinsically linked to the work undertaken by the people of South Africa to transition society and improve the quality of life of all its citizens."

South Africa's constitutional commitment is to advance good governance, locally and internationally. The country's consolidated democratic practices give it the courage to play an active leadership role in regional, continental and international bodies where it has assumed membership. Mr Thusi argued that participation in

both the APRM and OGP reflect the government's commitment to working with peers from across the globe to create a better South Africa, and a better world.

Both the APRM and the OGP present numerous opportunities for the continent and the world to meet the development goals as outlined in the 2030 Agenda. They also provide a ready-made instrument for implementing the SDGs. It is vital for civil society and other stakeholders across the globe to hold governments accountable for the implementation, and to play a role in the process. Through the APRM, the continent will seek to strengthen governance, and to fasttrack the implementation of the SDGs. In his conclusion, Mr Thusi hailed the dialogue as an ideal platform for collaborative work, through sharing ideas aimed at moving SA, the region and the continent forward. He pointed out that the best measure of the success of this engagement will be everyone's ability to translate the dialogue into action so as to build a just, fair, prosperous and equitable world. To realise this vision, it is important that government and civil society work hand in hand, Mr Thusi concluded.

Kira-Leigh Kuhnert, Open Democracy Advice Centre



Ms Kira-Leigh Kuhnert's presentation sought to elaborate on some of the points that Mr Thusi raised around the OGP, and provided further background regarding its processes and how it can be used as a platform to further the SDGs, as well as as an advocacy space. Ms Kuhnert pointed out the importance of the OGP tenets, such as access to information, open budgeting, asset registers for public officials, and civil society participation, among others for member states to be OGP compliant. Focusing on the links between the SDGs and the OGP, she maintained that it is vital for governments to build effective, accountable and inclusive institutions at all levels of government. She argued that advocacy by SA civil society

for the creation of indicators within the National Action Plan would help to maintain the accountability to the SDGs, more so with regards to Goal 16.

In her conclusion, Ms Kuhnert urged for a continuous dialogue on issues facing respective countries, regarding the SDGs through the OGP platform. She argued that it could not be viewed as efficient to simply put forward National Action Plans and then wait for the mid-term assessment. There needs to be continuous engagement among stakeholders, including the monitoring by civil society of the implementation by government.

Ferdinand Katendeko, the African Peer Review Mechanism (APRM)

Mr Katendeko's presentation focused on the APRM, its foundation and functions, as well as how it has a nexus with civil society. He pointed out that the APRM has the mandate to ensure that the policies and practice of participating states conform to the agreed political, economic and cooperative governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Cooperative Governance. He argued that the APRM encourages self-monitoring by participating member governments and seeks to ensure that there is good governance in Africa.



According to Mr Katendeko, parliament, media, government bodies, the private sector and CSOs, including women and children comprise the vital aspect of APRM work. Therefore, as

Goal 16 of the SDGs deals with peace, justice and strong institutions, it is important to observe that the underlying objectives in the establishment of the APRM are to ensure good governance in Africa, and to address injustice, especially towards the poor, women and children. As a way of linking its work with Agenda 2030, the APRM also encourages states to have their laws and policies conform to both regional and international standards. It urges states to sign and ratify these instruments as well as to monitor their implementation on peace and justice. Through its various institutions and tools, the APRM acts as an early warning mechanism to detect conflicts and crime, and to give appropriate advice or recommendations to member states so that they can address these matters.

In terms of the APRM, civil society is critical to any meaningful engagement on the SDGs, as it includes grassroots-based perspectives. Civil society is a valuable source of ideas and tacit knowledge, as it is in touch with the people. It is vital that civil society urges states to implement and domesticate international laws and agreements. It should also advise states to make policies that ensure peace and justice, Mr Katendeko argued. According to him, civil society should participate in APRM processes so as to share valuable information and in order to assist in the implementation of its recommendations. The APRM has increased the democratic space available for stakeholders to air their views freely, and has exposed structural and cross-cutting challenges across African states, such as corruption, managing diversities, youth unemployment, land, and natural resource management. It has also produced well documented knowledge and high-quality data, which can be drawn upon to gain insight into the genesis of the present programmes.

In concluding his presentation, Mr Katendeko argued that while there has been strong cooperation between the APRM and civil society, this can be strengthened further. Goal 16 alone without the other Goals cannot transcend into a proper development programme. Therefore, it is pivotal that all together, this goal must help reach the targets. This participation should continue, especially in regards to the implementation of these SDGs.

CONTRIBUTIONS FROM THE FLOOR

Contributions from the floor included:

- Concern around the lack of inclusion of young people in public dialogue and decision making around the Sustainable Development Goals in general
- Questions around the influence of civil society on global policy agreements
- A query around the challenges of tracking and monitoring progress of policies implemented in the African continent. Participants from the floor asked for some insight on the mechanisms available to the APRM, regarding tracking and monitoring progress on SDGs
- Participants wanted to know more about the mechanisms in place for monitoring shortfalls and corruption within civil society organisations themselves. They argued that this would guarantee accountability of non-state actors
- A point raised in relation to the issue of access to justice for previously disadvantaged populations. It was said that justice tends to favour those with the financial resources.

Therefore, the question was how can we make justice equal to all, whether one has money or not?

RESPONSES FROM THE PANEL

Mr Katendeko pointed out that the APRM has taken the initiative of seeking to bring all African countries on board. He also mentioned that through the APRM, African governments had been urged to have a national

governing council. This would include members of civil society, with the aim of encouraging participation and sharing of ideas and expertise from non-state actors. He reminded the audience of the role of civil society as a grassroots-based formation that presents a valuable knowledge hub, emphasising that civil society is crucial and cannot be left out. Making linkages with the OGP, Ms Kuhnert stated that it is vital to have the principles of the OGP fully implemented. There have been many issues raised regarding the role of civil society in the OGP and what this means for a true partnership between the state and non-state actors. Indeed, the existing initiatives that are proposed through the OGP open up an opportunity for civil society to raise its voice, and to be the voice of the people in national, regional and global platforms on the Agenda 2030 and the SDGs.

In responding to the question of access to justice, Judge Mlambo pointed out that there are a lot of initiatives that Legal Aid SA is involved in which are aimed at providing access to justice. He argued that the biggest challenge regarding access to justice is countering the shared belief that access to justice means access to a lawyer and the courts. Therefore, in terms of access to both attorneys and the courts, he asserted that civil society formations need to analyse court judgments over a period of time. This would help them to see whether these judgements confirm this shared perception or not. Judge Mlambo reiterated his call for alternative forms of legal aid assistance such as paralegal community associations and formations, especially in rural areas. Advocate Shafie Ameerma concluded the responses by arguing that the Human Rights Commission must assist where it can, together with Nadcao. He went on to say that they would work collectively with others towards contributing to the promotion, protection and monitoring of human rights in South Africa.

PANEL DISCUSSION TWO

Facilitated by Seth Mnguni (Chairperson of the Association of Committee Advice Offices in South Africa (ACAOSA)), this session sought to look at measuring and meeting the targets for Goal 16 of the SDGs. The concern among stakeholders including the sector of committee advice offices and legal empowerment practitioners rested on the issue of indicators risk in ignoring most peoples' justice problems. This discussion therefore shared their perspective on how best civil society can put forward different implementation processes and programmes that can ensure that Goal 16 is measured adequately so that no-one is left behind and that the intentions of the goal are met.

Judge President Dunstan Mlambo, Chairperson of Legal Aid, South Africa

In his introduction, Judge Mlambo reminded the audience that the dialogue workshop is about a very important global agenda item for SDGs, that is Goal 16. He highlighted that Goal 16 talks about peace, access to justice, inclusive societies. He proceeded to argue that Legal Aid is standing with all civil society groups regarding Goal 16 of the SDGs because Legal Aid has always called for government to pay more attention to the issue of access to justice. Therefore, the inclusion of access to justice as part of the SDG's Global Framework is welcomed by both civil society and Legal Aid. According to Judge Mlambo, in considering what indicators are appropriate and ensuring that these indicators will be effective, it is pivotal that we remind ourselves that the twin evils of poverty and inequality remain very real. Therefore, meaningful indicators for Goal 16, especially target 16.3, will also contribute to a great extent towards the achievement of targets for this Goal. He articulated that South Africa's constitution is contemplated in Goal 16, and highlighted the fact that the country has a benefit of an activist and human rights-orientated judiciary. Furthermore, South Africa has an



involved civil society which advocates for an improved access to justice for all, this gathering is testimony to that.

It is vital to note that meaningful access, particularly early access to justice must include access to legal aid or to assistance at state expense where this is required. Critical for this is fair hearing. He argued that looking at the indicators, it is important to note that guaranteeing access to justice for persons with private and civil disputes is one of critical aspects of access to justice. Therefore, in developing indicators to measure progress on Target 16.3, it is necessary to remember that meaningful access to justice also includes justice in civil matters. Judge Mlambo pointed out that this must include the recognition of the obligation of the state to provide the necessary mechanisms. These have to do with access to assistance and empowerment programmes that enable ordinary civilians to access the justice system easily.

Highlighting some of the challenges facing ordinary people's access to justice, Judge Mlambo pointed out that the shortage of skilled attorneys and skilled legal professionals is one of the key issues. He maintained that this can be alleviated by the use of alternative forms of legal aid assistance such as community para-legal associations and formations, especially in the rural areas. Judge Mlambo maintained that community para-legal have an understanding of the community dynamics and they enjoy the trust relationships with those who have legal issues and legal problems that require resolution. Therefore, the issue of accessible and effective legal assistance means that there is a need to come up with ways of encouraging legal empowerment programmes. According to Judge Mlambo, these would ensure that people still access justice without having to have recourses to trained lawyers who are expensive. Hence in relation to target 16.3, which seeks to promote the rule of law at the national and international levels and to ensure equal access to justice for all. These legal empowerment programmes would be well equipped in addressing three key objectives. These being:

- To enable members of our society to access legal aid and our assistance to access the justice system; this should encompass those facing criminal charges as well as those having private or civil disputes;
- To build effective and efficient justice institutions. This will lead to expeditious treatment of cases and matters coming into the justice systems and prevent delays in court processes and lengthy detentions. And lastly;
- The promotion and the protection of the rule of law.

The first two would lead to the creation of the confidence in the justice system that everyone strives for. Indeed, Legal Aid South Africa has always watched with careful observation SA's civil society support for equality and justice before the law, Judge Mlambo argued. He reassured the audience that Legal Aid South Africa, as a state actor continues to collaborate with civil society formations. He argued that this collaboration is to make sure that the Departments that are key to ensuring that appropriate indicators are crafted – Justice, Foreign Affairs – also come to the table for Agenda 2030. Judge Mlambo concluded his presentation by reminding everyone that realistic indicators and common voice are necessary so as to *leave no-one behind*.

Mohammed Shafie Ameerma, Commissioner at the South Africa Human Rights Commission

Advocate Shafie Ameerma pointed out that the mandate for South African Human Commission is to promote, protect, monitor and advance human rights in the Republic. Internationally, the SAHRC is constituted in terms of the Paris Principles relating to the status of national institutes for the promotion and protection of human rights. The Paris Principles encourages the national human rights organisations to cooperate constructively and consult with civil society organisations in the cause and scope of their activities.

The SDGs mark a paradigm shift towards an equitable and sustainable world that is human rights-based. According to Advocate Shafie Ameerma, after the adoption of the SDGs in late 2015, the International

Coordinating Committee hosted a conference. This conference took place under the theme the *Sustainable Development Goals – What are the roles of the National Human Rights Institutions (NHRIs)?* The conference’s declaration was adopted, entitled ‘The Mérida Declaration’ – The Role of the NHRIs in Implementing the 2030 Agenda for Sustainable Development’. According to Advocate Shafie Ameerma the Mérida Declaration, among other things, encourages NHRIs to collaborate, partner and synergise with civil society organisations in realising the 2030 Agenda. Furthermore, the International Coordinating Committee has set up a Framework Working Group for the Sustainable Development Goals to look into the framework for the role of NHRIs in implementing the SDGs.



These initiatives will aim at encouraging the NHRIs to engage with international human rights mechanisms in promoting and protecting human rights and fundamental freedoms. They will also seek to strengthen participation, promote the rule of law, develop and enhance public awareness. Advocate Shafie Ameerma argued therefore that the SAHRC will continue to monitor and hold government to account for poor and uneven progress in the attainment of the SDGs, simultaneously striving to secure redress for victims of human rights violations.

PANEL DISCUSSION THREE

Busani Sibindi Matebeleland Development Trust, Zimbabwe

Mr Sibindi touched on the influencing the Post-2015 Agenda and how it has been most rewarding in the areas of sustainable development. Regionally, the SDGs will play a critical role in making sure that there is a co-ordinated multi-stakeholder engagement. In this case there will be a need to have a well-co-ordinated civil society and other stakeholders are engaged, Mr Sibindi argued. He pointed out that civil society’s role in the implementation of Goal 16 is vital. This is due to the fact that civil society has already played a critical role in the framing of the Sustainable Development Agenda. Civil society will have to concretely develop a human rights-based approach to sustainable development programmes, implementation, review, monitoring, evaluation and reporting. According to Mr Sibindi:



“these strategies should reach out to all relevant stakeholders including states, local authorities, civil society organisations, businesses, national human rights institutes, regional human rights bodies, the UN system and most importantly human rights holders – such as women, children, persons with disabilities, indigenous peoples, migrant workers, who can use such strategies to pursue a human rights-based approach to sustainable development”.



Mr Tumbo urged all relevant stakeholders to work hard in order to achieve a universal agenda with indicators that will be able to be assessed. He pointed out that governments in the continent need non-state actors our assistance. For him, this would enable actual implementation and realisation of these Goals in respective countries. Key to this cooperation is to deal with the challenge of not only realising the SDGs but at the same time working towards realising Agenda 2063 for Africa. This will make things clear in terms of what should be prioritised between Agenda 2063 and the SDGs of Agenda 2030, Mr Tumbo maintained. Appreciating how these two development agendas are well-captured and well-represented, Mr Tumbo advised

all relevant stakeholders that it is important to look carefully at this issue of National Sustainable Development Commissions. He pointed out that one of the key outcomes of the 1992 Rio Conference on Environment and Development was a call for the establishment of national sustainable development commissions and national sustainable performance strategies. As such he recommended that it would be wise to adopt the same strategy.

CONCLUSIONS

The dialogue workshop concluded with the following observations and recommendations; that:

- Member states of the OGP and the APRM should encourage other countries in their regions to participate in the OGP
- Particular emphasis must be placed on the inclusion of youth and the co-creation and implementation of the National Action Plans
- Civil society should be represented, to ensure that no constituency's voice is lost in this process
- CSOs should be encouraged to leverage every space available for dialogue and engagement with government
- There is crucial need for better data collection in government towards a proper quantification, costing and implementation of the SDGs

The dialogue emphasised the importance of civil society in taking ownership of these processes. From the SA context, it was pointed out that the unwavering commitment from Legal Aid SA and the South African Human Rights Commission to support civil society, remains crucial. It is vital to develop indicators which include not only formal institutions, but also informal institutions, nationally, regionally and continentally. This point talked directly to the importance of Small Medium Micro-Sized Enterprises (SMMEs) and informal business in making the SDGs a success, as well as other stakeholders that need to be roped in, such as academia.

In her concluding remarks, Ms Romi Reinecke from the Friedrich Ebert Stiftung (FES) reminded the audience that the experience both in SA and in the Southern African region, indicate that violence, conflict, stark inequality and continuing injustice make both democracybuilding and sustainable development impossible to achieve. Therefore, she argued that it is important to strengthen the role and solidarity of CSOs in national,

regional and international struggles towards advancing Goal 16, as well as strengthening synergies with the African Union Agenda 2063 and the OGP.

The analysis and recommendations included in this Policy Dialogue Report do not necessarily reflect the view of SALO or any of the donors or conference participants, but rather draw upon the major strands of discussion put forward at the event. Participants neither reviewed nor approved this document. The contents of the report are the sole responsibility of SALO, and can under no circumstances be regarded as reflecting the position of the donors who provided financial assistance for this policy dialogue session.

About the Southern African Liaison Office:



The Southern African Liaison Office (SALO) is a South African-based not-for-profit civil society organisation which, through advocacy, dialogue, policy consensus and in-depth research and analysis, influences the current thinking and debates on foreign policy especially regarding African crises and conflicts.

SALO would like to thank

(in alphabetical order) the Department of International Relations and Cooperation (DIRCO), the European Union; Friedrich-Ebert-Stiftung (FES); Irish Aid and the Embassy of Ireland, Pretoria; the Embassy of the Kingdom of the Netherlands in South Africa; the Royal Norwegian Embassy, Pretoria; The Olof Palme International Centre; Open Society Foundation; the Southern African Trust and UK aid, among others, for their ongoing support of our Policy Dialogue Series.

