



Global Dialogue on Rule of Law and the Post-2015 Development Agenda

Report

December 2013



Table of Contents

- Executive Summary 3

- Summary of the Proceedings 6
 - High-Level Opening Session 6
 - Panel Discussions 8
 - Working Group Discussions 10
 - Proposals of Targets and Indicators 13

- Next Steps and Outcome 18

- List of Annexes 19

Executive Summary

The *Global Dialogue on Rule of Law and the Post-2015 Development Agenda* was held from the 26-27 September 2013 in New York. The Dialogue brought together practitioners, thinkers and policy makers, primarily from the Global South, to explore the role of rule of law in the post-2015 development agenda. It also aimed to build on the ongoing expert discussions on measuring development goals and identifying rule of law targets and indicators that could be incorporated within the development framework following 2015.

This report provides a summary of the proceedings and outcomes, including annexes of all statements and background materials. The event itself was composed of two parts: it was opened by a high level session which included statements from the States of Denmark, Mexico, Turkey, Senegal as co-hosts of the meeting as well as the UN Deputy Secretary-General, the Administrator of UNDP, the Secretary-General's Special Representative on Post-2015 and the Director-General of the International Development Law Organization (IDLO) (Annex VII). It was followed by a practitioner's meeting where the different dimensions of the rule of law were discussed in detail through presentations on the background papers on the themes of Rule of Law in Post 2015, Justice, Armed Violence Reduction and Empirical Linkages between Rule of Law and Development (Annex VIII-Annex XII). This was followed by in-depth working group discussions on the following issues: i) *Accountability, Legal identity and Access to Public Services*; ii) *Legal Empowerment and Legal Aid*; iii) *Access to Justice*; iv) *Social and Economic rights (including land, property and environmental and natural resource management)*; v) *Gender Justice*; vi) *Security and Justice Institutions*; and vii) *Armed Violence Reduction* (Annex XIII). The meeting also benefited from contributions made to the e-consultation hosted on the World We Want website prior to the *Global Dialogue* (Annex XIV).

The *Global Dialogue* resulted in an Outcome Statement which affirmed that the rule of law plays a significant role as an enabler and outcome of development (Annex I). As such, in the post-2015 discussions, it could be conceived as a separate goal, an enabling goal, as part of a goal on governance and/or peace, and as targets, with corresponding indicators, within other goals. The Outcome Statement recommended that the deliberations for the next development agenda consider how elements of the rule of law can be incorporated to establish safe, peaceful, just and equitable societies.

The discussions highlighted how the rule of law is both an enabler and outcome of development. They noted the importance of context and national specificities while also discussing universal goals and targets. A focus on the people and their lived experiences with institutions and systems was stressed throughout the workshop, for example, the use of traditional and grassroots justice mechanisms and how these systems could be considered in the context of the post-2015 development agenda.

While the discussions reflected on the linkages between rule of law and development, they also raised questions about the adequacy and complexity of the available data. The presentations and discussions noted the need to consider qualitative as well as quantitative evidence in order to fully understand the reality of how the rule of law functions in societies and to measure progress on improving the rule of law (Annex VIII). Additional challenges include that data collection takes time, that it can be difficult to measure impact of specific reform interventions, that there can be limited availability of existing data, and that there is always the possibility of distortions and manipulation. The different types of measurement were also discussed, such as perception measures, awareness measures, impact measurement, and measurement of the structural challenges. It was strongly recommended to take a user-perspective and disaggregate data collected on people's experiences including of different groups such as minorities, women, children, to ensure that everyone is, for example, equally able to access justice.

Overall, it was noted, the evidence for the relationship between rule of law and economic growth is increasing, but complex. It is multi-faceted and cuts across a range of disciplines and has indicated some causal, and sometimes contested, relationships between rule of law with economic growth, social justice, enhancing safety and security, public and private accountability, and the fair allocation of services by governments (Annex IX). The empirical study which explored the statistically based linkages between the World Justice Project Rule of Law Index and the Human

Development Index (HDI) noted that while limited government powers and regulatory performance were seen as the most proximate in relation to development, a greater positive relationship was found between the HDI and the rule of law when factoring in the dimensions of accountability and transparency (Annex XII). Additionally, the linkage with violence reduction was highlighted as evidence shows that countries with higher levels of violence and conflict are slower at achieving the Millennium Development Goals and that high violence areas in middle-income countries often have pockets of exclusion from basic services such as health, safety and education (Annex XI).

The working group discussions, while focused on one particular element of the rule of law, often touched upon many different aspects of it. Below is a summary of the key substantive themes that emerged across the different groups:

- **Strengthening Accountability, Access to Information and Access to Public Services** – The rule of law is understood as a significant means of contributing to accountability. The independence of the judiciary, separation of powers, and addressing corruption were highlighted in the discussions. Strengthening the role of civil society and communities in holding to account justice and other governance institutions and increasing access to information were some suggestions to enhance accountability. Increased participation in law-making and awareness of laws, policies, rights and entitlements, play a significant role in promoting people’s agency and ability to participate in decision-making processes, including in the formulation of laws and policies.
- **Legal Empowerment and Legal Aid** – Legal empowerment is understood as a means to improve access to effective justice, to enable people to understand the legal framework and empower poor people and excluded communities to engage in their own development processes and to claim their rights and entitlements. Law reform needs to be informed by analysis of the changes necessary for development objectives, e.g. to secure the right to food, shelter, housing, family. Legal identity, registering businesses, securing land and property rights were discussed as key development triggers that could be featured within targets. The role of rule of law in strengthening regulations to protect the environment and prevent unsustainable development models (e.g. negative environmental and social impact of extractive industries such as mining, pollution from industrial development) was emphasized. Participants also noted that indicators on legal aid, as a means of legal empowerment, should include both criminal and civil matters and measure the quality of legal aid services.
- **Enhancing Access to Justice** - Justice is understood as a way of solving problems peacefully and providing redress for grievances or resolving disputes. Justice was also seen as a driver for opportunities, enabling marginalized groups to have voice and to exercise their agency. Access to justice is understood as ensuring that legal and judicial outcomes are just and equitable; that barriers facing different social groups in accessing justice systems are removed and they are able to use the universe of justice systems – including “formal” and “informal” - to address disputes and claims with fair outcomes. In order to meaningfully ensure access to justice, capacities of the entire system – across the justice chain – need to be considered. It was also suggested that justice and security institutions (such as police and military) should be considered separately when developing targets, in order for measurements to be accurate and precisely capture the functions of the different institutions.
- **Security and Violence Reduction** - Violence reduction is considered fundamental to achieving development outcomes since addressing conflict and armed violence is critical to sustaining development gains. Detailed discussion on indicators focused on the widely available data on homicide rates. Considering that armed violence takes place in both conflict and non-conflict settings, indicators should cover both situations and be expressed as ‘violent death’ rates. The discussion also encouraged incorporating critical risk factors of violence such as youth exclusion and unemployment as cross-cutting within other development goals. Additionally, external drivers of conflict and violence were also discussed including drug trafficking, organized crime, the proliferation of small arms, and illegal exportation of natural resources. Other aspects of violence that would need to be considered as targets included reduction of violence against women.
- **Gender Justice** – The discussion on gender justice focused on attaining goals to redress inequalities of power, wealth, resource use and opportunities in the context of securing basic substantive rights related to

inheritance, property, maternity, work and labor. The discussions also elaborated on the need to address sexual and gender-based violence and secure sexual and reproductive rights. Participants noted that incorporating the rule of law in post-2015 would facilitate attaining these rights for women, through mechanisms for alternative dispute resolution and more accessible justice systems (among others).

Throughout the meeting it was stressed that developing targets and indicators for the post-2015 agenda is not just a technical process, but a political one where decisions include trade-offs and priority setting. The importance of developing global goals, targets and nationally tailored indicators was also discussed in detail. Finally, it was noted that attention should be paid to unintended consequences or creating perverse incentives. A significant recommendation was made on investing in strengthening national data collection capacities related to the areas explored.

Recommendations on next steps following the meeting were to feed the outcomes of the Dialogue into the discussions by Member States on the post-2015 agenda, to vet the proposed targets and indicators emerging from the meeting through a small high-level technical group, and to work at the national level to develop a tailored, context specific framework for measuring progress with a view to illustrating what is possible for implementation at the national level, for consideration in the post-2015 agenda deliberations.

Summary of the Proceedings

High-Level Opening Session

The High-Level Opening Session was attended by over 150 people including participants of the Global Dialogue (Annex IV and V) and representatives of Member States, civil society organizations and other international entities.

Olav Kjørven, Director of the Bureau for Development Policy of the United Nations Development Programme welcomed the participants, thanked the governments of Mexico, Denmark, Senegal and Turkey for co-hosting the event and opened the first session with the Deputy Secretary-General of the United Nations and the Administrator of UNDP. (See agenda in Annex III).

Mr. Jan Eliasson, Deputy Secretary-General of the United Nations provided the opening remarks and highlighted the opportunity that exists for participation in the development of the vision for the post-2015 development agenda, noting that “our future development agenda should be ambitious and inspirational. It should have sustainable development at its core – with eradicating poverty as its priority. Delivering the rule of law through strong institutions is paramount to development.”

Ms. Helen Clark, Administrator of the United Nations Development Programme began the Keynote Address by noting that Member States at the UN Special Event on the MDGs held the day before had agreed on an outcome document calling for “a single framework and set of goals which includes the promotion of peace and security, democratic governance, the rule of law, gender equality and human rights for all.” She proceeded with reflections on how the rule of law is both an outcome and an enabler of development, using examples from UNDP’s own rule of law support in countries.

Ms. Clark encouraged the participants of the Global Dialogue to consider targets proposed by the UN Secretary-General’s High Level Panel including: reducing the number of violent deaths worldwide, decreasing violence against women and children, increasing the proportion of justice institutions which are accessible, independent, and well-resourced, providing all people with a free legal identity, to help them claim their rights, settle disputes, and register businesses. She ended by asking the experts and practitioners gathered for the Global Dialogue to also include in their deliberation some consideration of how universal goals relating to the rule of law can be advanced and measured in specific countries and contexts, how to track progress across all social groups and in the poorest and most insecure places in the world, and to identify specific research and capacity needs.

Mr. Kjørven then welcomed the panelists for the session on *MDGs to Post-2015: Rule of Law and Development* which included the Secretary-General’s Special Adviser on Post-2015 Development Planning and the Director-General of the International Development Law Organisation (IDLO). He noted that Honorable Chief Justice of Kenya, Dr. Willy Mutunga was meant to take part in the panel, but due to the unfortunate events in Nairobi had to send his regrets.

Ms. Amina Mohammed, the Secretary-General’s Special Adviser on Post-2015 Development Planning took the opportunity to highlight the importance of the rule of law for development, to note its reference in the report of the Secretary-General and to identify some opportunities to engage in the future. She observed that issues related to the rule of law have or will feature in all important discussions underway as part of the process defining the post-2015 development agenda and that the rule of law is one of the themes that will be discussed by the Open Working Group on the Sustainable Development Goals at its eighth session in February 2014.

Ms. Irene Khan, Director-General of the International Development Law Organization began her statement by outlining some of the lessons that IDLO has learnt from its experiences: the rule of law is necessary for fighting poverty and promoting sustainable development. She noted that poverty is defined as the lived experience of poor people, that it is about deprivation and discrimination, exclusion and insecurity, powerlessness and lack of voice and that the rule of law is necessary to address many of those problems.

Ms. Khan noted that laws do not by themselves provide justice. Laws can fight discrimination or can be discriminatory. She also pointed out that for the rule of law to work, institutions must be accountable, responsive and locally owned. She also encouraged a focus on people: “For institutions to work, people must be empowered”. And finally expressed the importance of measuring the quality of justice, not the efficiency of institutions: “I hope the post-2015 agenda will go beyond law and rules and will look at principles and values, that it will look at fair process but also at fair outcomes, that it will demand both the accountability of states and the empowerment of citizens. The rule of law is about effective institutions, empowered citizens and equitable and inclusive development. It is about creating a culture of justice.”

The panel on *Integrating Rule of Law in the Post-2015 Development Agenda* session was chaired by **Mr. Jordan Ryan, Director of the Bureau for Crisis Prevention and Recovery, UNDP** who welcomed the panelists from the co-hosting countries of Denmark, Senegal and Turkey to the panel.

H.E. Dr. Christian Friis Bach, Minister of Development Cooperation, Denmark noted that international consensus is emerging on the importance of rule of law and that it is a comprehensive concept which is strongly interlinked with obligations of States to respect and promote international human rights and provide legal protection for all without discrimination. He elaborated that the rule of law is the foundation on which prosperous societies are built and that it means adhering to fundamental human rights as a basis for the social contract between citizens and the state. He noted that Denmark adopts the human rights-based approach to its development cooperation which includes the rule of law as a powerful means to strengthen gender equality, promote peace and stability, and address inequality and redistribution of economic, social and political benefits and opportunities.

H.E. Sidiki Kaba, Minister of Justice, Senegal began his statement by noting that as the deadline for the MDGs approaches, much has been achieved, but still more needs to be done to address development issues worldwide. Lessons from the MDGs show that a holistic approach needs to be taken which includes promoting principles such as the rule of law, democracy, good governance, human rights, and the fight against corruption. He noted that the concept of development and the rule of law are interdependent and mutually reinforcing as can be seen in situations where the absence of the rule of law can jeopardize efforts towards development. He said that the new global development agenda should include the rule of law and security and reaffirmed Senegal’s commitment towards strengthening the rule of law and achieving the MDGs.

H.E. Cevdet Yılmaz, Minister of Development, Turkey highlighted that the Millennium Declaration from 2000 included several references to the concept of the rule of law, which was not included overtly within the MDGs, but that it should be the basis for the new development agenda. He also emphasized that the rule of law is central to the economic and social development of nations and for the well-being of human-beings and that development policies should be consistent with this essential principle of justice, including equity and social inclusion in order to achieve peace. He emphasized engagement of women and young people and equal access to information. He ended by saying that the while responsibilities for the adoption and implementation of the rule of law for a better future for all lie within the State – legislative, executive and judiciary, civil society and international organizations also have a role to play in promoting and encouraging the establishment of the rule of law.

Mr. Roberto Dondisch, Director General for Global Affairs, Secretariat of Foreign Affairs read Mexico’s statement on behalf of H.E. José Antonio Meade Kuribreña, the Secretary of Foreign Affairs of Mexico. He noted that the rule of law plays a critical role in both poverty eradication efforts and the protection of fundamental rights of those who are marginalized. He elaborated that the rule of law is crucial to achieving the MDGs, countering social injustice and that it is a factor driving progress in all countries – developed and developing. “The next development agenda,” he noted, “must tackle the hard questions related to rule of law if the development gains are to be maintained and if we are to build together a more sustainable, peaceful future.”

Mr. Ryan made concluding remarks summarizing the key messages from statements of the co-hosting countries, expressed a joint commitment of the co-hosts to the rule of law in post-2015 and encouraged forward momentum and consideration of the outcomes of the Dialogue in the intergovernmental processes.

Panel Discussions

Following the high level session, the meeting focused on technical exploration of the issues through panel presentations and working group discussions. The panels consisted of presentations based on the background papers prepared for the meeting and a presentation on the role of grassroots, community justice systems in development processes. (Annex VIII includes the presentations and Annexes IX-XII include the background papers).

Mr. Deval Desai, School of Oriental and African Studies, presented reflections on the linkages between the rule of law and sustainable development. He focused his remarks around four main points: 1) framing the rule of law, 2) rule of law and trade-offs, 3) rule of law and the evidence/data, and 4) rule of law and indicators. He noted that the rule of law is a complex concept which resonates across borders and boundaries while also reflecting a diverse set of perspectives rooted in societies' culture, history, politics, institutions and conceptions of justice.

He emphasized the importance of context, i.e. that the rule of law is a social and political reality for particular people in their times and places which could indicate trade-offs and tensions. The exercise of discussing indicators then is not just a technical process, but a political one where trade-offs need to be considered. He also noted that the evidence base does not always provide clear guidance, making the political nature of indicators even more pressing. While developing indicators, he suggested that participants focus on: people-centered problem-solving, realism, and context, while also being aware that setting indicators may have unintended consequences.

Within this context, the background paper (Annex IX) identified three possible, not mutually exclusive, frames for goals that might help guide discussions:

- Define a common rule of law goal with a flexible basket of indicators that can be tailored to country contexts.
- Adopt the rule of law as a high level “enabling” goal, which would commit countries to make national-level policy changes that enable progress on other development goals.
- Incorporate the rule of law across development goals, through rule of law-specific targets and indicators in support of other goals.

Mr. Luigi De Martino, Coordinator of the Geneva Declaration Secretariat, presented on the direct negative impact that armed violence has on development. He noted that an estimated 526,000 people die violently every year, 90% in settings not experiencing ‘conflict’. He presented the evidence that armed violence imposes a heavy burden in societies including human costs, high law and order expenditure, with decreasing public investment in health and education, social and economic damage, and slower MDG achievement. He noted that few low-income fragile or conflict-affected countries are likely to achieve the MDGs. For example, as highlighted by the World Development Report of 2011, a country that experienced major violence over the period from 1981 to 2005 has a poverty rate 21 percentage points higher than a country that saw no violence (World Bank, 2011, pp. 4-5). He also stressed that, although the countries with high and very high homicide rates are concentrated in the low human development band, violence and insecurity are not an exclusive concern of developing countries. In the medium and high human development categories, an increasing number of countries report severe homicide levels. In these countries, high violence areas are often characterized by exclusion from basic services like health, safety, and education. He stressed that the capacity of a state to build and sustain effective justice and security institutions is related to the levels of violence: research has shown the existence of a link between weak rule of law and high levels of homicide. He ended with the key messages that: armed violence is a global concern and a development disabler; as such armed violence reduction and security promotion must be recognized as a basic human need and a development issue to be considered in the post-2015 development agenda. Finally, he argued that armed violence reduction is possible despite being complex, messy, and difficult to address. (Background paper in Annex XI).

Dr. Mark Orkin, University of the Witwatersrand presented an empirical exploration of the manner and extent to which the rule of law predicts development, focusing on using two well-established indexes. Rule of law is conceived by the World Justice Project (WJP) to have eight components, of which four may be taken as core (limited government powers, regulatory performance, civil justice, and criminal justice), and four may be taken as cognate, in that they are equally well regarded as aspects of good governance (absence of corruption, order and

security, fundamental rights and open government). Development is measured by the UNDP's Human Development Index, which includes measures of education, life expectancy and gross national income. Key points made in the presentation included that when looking at the different components of the rule of law, there was a large indirect positive effect on the HDI when considering components of the rule of law such as fundamental rights and transparency. It was also noted that absence of corruption also had an overall positive effect on the HDI. (Background paper included in Annex XII).

Mr. Gilbert Tendai Mungate, Headman from Domboshava, Zimbabwe and **Ms. Shorai Chitango**, Grassroots Leader, Ray of Hope, Zimbabwe, discussed the *Role of Traditional Justice Systems in Sustainable Human Development*. They noted that "traditional leaders and traditional structures remain influential among a large majority of the population in Zimbabwe, in both urban and rural areas." The presentation focused on how grassroots women's organizations have been working with traditional leaders to improve justice outcomes for women through community and traditional mechanisms. Key findings of the forthcoming Huairou Commission study supported by UNDP were also discussed. The study found that it was twice as likely that women were satisfied with the outcome of their land dispute when they used a grassroots mechanism alone or when they used the mechanism combined with either a traditional leader or a statutory mechanism. Major recommendations made by the panelists included:

1. Governments and development practitioners need to provide grassroots women community practitioners with the enabling environment, i.e. (1) technical support; (2) space to convene regular meetings; and (3) partnership with diverse stakeholders.
2. Governments and development practitioners need to encourage the use of a gender and context specific lens in discussions around women and justice at community and national levels.
3. The global discussion on the post-2015 development agenda could benefit from understanding the role of justice at the community and grassroots level for women and the poor, including in countries such as Zimbabwe, if it is serious about closing the gaps remaining in MDG 1 and 3 (poverty eradication and gender equality and women's empowerment) and working towards ensuring access to justice for the poor.

Working Group Discussions

The participants of the Global Dialogue were divided into seven working groups with approximately 10-12 people in each group. Each group took on one of the following topics: i) Accountability, Legal identity and Access to Public Services; ii) Legal Empowerment and Legal Aid; iii) Access to Justice; iv) Social and Economic rights (including land, property and environmental rights and natural resource management); v) Gender Justice; vi) Security and Justice Institutions; vii) Armed Violence Reduction. (Annex XIII includes detailed notes from the working groups).

The working groups discussed the parameters of the debate and the linkages between the rule of law and development. There was a particular focus on what some of the main challenges may be in terms of developing a monitoring framework on the rule of law – e.g. data gaps, comparability across countries – and what some proposals could be to address them. Some of the challenges discussed included how to ensure a universal framework that also allows for context specificity. The working groups then went on to discuss specific targets and indicators for the different themes. They examined some of the proposed targets and indicators from the Secretary-General's High Level Panel report as well as from the expert meetings in June 2013 in Glen Cove (Expert Meeting on Accountability Framework for Conflict, Violence and Disaster in the Post-2015 Development Agenda organized by the United Nations Development Programme, the United Nations Peacebuilding Support Office, and the United Nations Children's Fund with the Institute for Economics and Peace and the World Bank) and in Vienna (Expert Consultation for Accounting for Security and Justice in the Post-2015 Development Agenda organized by the United Nations Office on Drugs and Crime).

The specific dimensions of the rule of law discussed by the working groups included the following:

Awareness of processes, laws, rights and responsibilities was discussed, both in terms of access to justice mechanisms as well as access to public services (e.g. safe water or health services). Rule of law related targets and indicators could look at improving administrative laws, polices and processes that affect people's ability to access public services.

Access to legal identity was discussed as an important target as it is linked to access to public services, registering businesses and receiving licenses, and many forms of participation in public life. The ability to leverage social and economic entitlements such as access to education or security of land or property rights is often compromised because of lack of legal identity. However, it was emphasized that legal identity should not be imposed as a requirement for access to basic services, especially in emergency situations.

Accountability and access to information were also discussed in terms of accountability of both public services and the justice sector. Independence of the judiciary and separation of powers, as well as anti-corruption, were seen as key to promoting accountability. Additionally, it was noted that there is often a gap between the judiciary and law enforcement systems and the gap in coordination means less efficiency and more potential of corruption. It was highlighted that access to justice or to legal identity can often be undermined by corruption. Access to information was suggested as key to strengthening accountability as was ensuring an enabling environment for civil society to play a monitoring role.

Participation in the formulation of laws as well as public participation in decision-making and monitoring was viewed as some ways to strengthen the quality of laws and of their implementation. Aligning the content and application of laws with development objectives by auditing the body of law and legal system from the perspective of the poor and excluded groups, and involving people directly in law reform processes more systematically were suggestions that emerged from the discussions.

Legal empowerment was understood as a means to improve access to justice, to enable people to understand the legal framework and empower poor people and excluded communities to engage in their own development processes and to claim their rights and entitlements. The understanding that poverty is not just about income, but also about deprivation of other rights and entitlements, including availability of avenues for seeking redress for injustices or equal protection under the law underpinned the discussion. Law reform needs to be informed by analysis of the changes necessary for development objectives, i.e. to secure rights to food,

shelter, housing, family, etc. However, law reform alone is insufficient in bringing about increased empowerment and access to justice. Detailed strategies and support for mechanisms to ensure that laws are implemented are also necessary. A continuing challenge is that 'empowerment' is often hard to measure.

Legal aid was seen as a means of contributing to legal empowerment. The State, pro-bono lawyers networks, paralegals, and community non-governmental organizations all have a role to play in providing legal aid services given the often limited resources available for legal aid. It was noted that it is an obligation of States, as per the International Convention on Civil and Political Rights, to provide legal assistance for the poor in certain criminal cases. It was also highlighted that legal aid should not only be considered for criminal cases, but given that many disputes are civil cases (e.g. land), legal aid for civil cases should also be strongly considered. In addition, it is necessary to monitor and measure the quality of legal aid services provided.

Access to Justice was understood as ensuring that legal and judicial outcomes are just and equitable; that different social groups are able to use formal and informal justice systems to address disputes and claims; that barriers facing different people in accessing these systems are removed; that justice includes formal and informal procedures and systems. Justice is understood as a way of solving problems peacefully and providing redress for grievances or resolving disputes. Justice was also seen as a driver for opportunities, enabling marginalized groups to have voice and to exercise their agency. Though the fora which people use to access justice may not be as important (a court or a community-based mechanism), it is important to capture the perspectives and experiences of end-users. The availability and accessibility of legal aid and credibility and independence of the institutions providing justice services also affect the ability of people to access to justice. Groups also focused on the need to shift the burden of responsibility on improving accessing justice from the people to the institutions through a more client oriented and service centered legal culture. Participants noted the challenges with supporting informal justice systems with unfair practices and discriminatory attitudes, but also recognized the service they provide to the community and the trust they enjoy. Targets that cover justice institutions can also ideally cover informal institutions, though it was recognized that data may not be as easily available on the functioning of these mechanisms.

Capacities of justice systems for systemic reform are seen as necessary to meaningfully improve access to justice. This is both in terms of supporting reforms of the justice system (including police, prosecution, courts, legal aid, corrections), and of the broader governance system. Piecemeal approaches have not proven to substantially promote the rule of law. A key concern is the adequacy of resources available for justice reforms including strengthening capacity of systems to investigate, prosecute, sentence, and implement sentences for perpetrators of crimes. Participants noted that investment in legal services should be improved and approached in a similar manner as that in health and education services. It was also suggested that justice and security institutions (police, military) should be considered separately when developing targets, in order for measurements to be accurate and precisely capture the effectiveness of the different institutions. On the other hand, the formulation of accessible justice institutions is usually understood to cover the functions of the police with regards to criminal investigation and prosecution.

Land and property rights, labour rights and environmental management are important elements of economic and social rights. Given the centrality of property and land rights to individual and community livelihoods, sustainable growth and development pathways of many developing countries, discussions on rule of law and the post-2015 development agenda need to consider wider social justice objectives as well as people's ability to access justice systems (i.e. both procedural and distributive justice). As such, engagement in these areas is highly political and attention to context means calibrating expectations based on political feasibility. Unsustainable development models can create rights deprivations (e.g. negative environmental and social impact of extractive industries such as mining, health impact of pollution from industrial development) and the rule of law can help strengthen regulations to protect the environment or the rights of local communities and indigenous populations. States can play a greater role in ensuring environmental rights are upheld through justice institutions, by reinforcing rights to community decision-making and meaningful participation in development processes, and requiring environmental and social impact assessments for businesses or development programmes. Justice systems can play a role in enforcing the obligations of states for the

progressive realization of economic and social rights overall and providing remedies when they are violated. The rule of law and justice institutions can also play a significant role in ensuring that transnational investment does not have an adverse impact on the lives of people by holding corporations accountable to national laws and regulations that protect the rights of communities and the environment.

Security and the reduction of violence are considered fundamental to achieving development outcomes and addressing conflict and armed violence is of primary importance for sustaining progress on development, including the MDGs. The working group discussions were grounded on the widely available data on homicide rates. It was noted that armed violence takes place in both conflict and non-conflict settings, hence indicators should cover both situations and be expressed as 'violent death' rates. The discussion also highlighted that critical risk factors of violence from a development perspective include youth exclusion and unemployment and suggested that such 'social risk factors' could be considered as cross-cutting within other development goals. Additionally, external drivers of conflict and violence should be considered such as drug trafficking, organized crime, the proliferation of small arms, and illegal exportation of natural resources. The importance of clearly defining concepts of violence was discussed to ensure everyone has the same understanding including, for example, what is meant by violence against women and kidnapping. Finally, while homicide rates are the 'clearest' proxy indicator for measuring violence in non-conflict settings, challenges in disaggregating the data for the indicator was flagged.

Gender justice discussions identified missing elements in the discourse around the post-2015 development agenda including participation of civil society, private sector (and the impact they have on women, including the need for a sound accountability framework), inequalities of wealth among women - within and across nations, autonomous women's movements, women's leadership at all levels, and instituting quotas (although there was no agreement on whether quotas *per se* promote equality). A focus on basic substantive rights related to inheritance, property, maternity, equal-pay-for-equal-work and labor was encouraged. The discussions also elaborated on the need to address sexual and gender-based violence and secure sexual and reproductive rights. Participants noted that incorporating the rule of law in post-2015 would facilitate attaining these rights for women through, among others, mechanisms for alternative dispute resolution or accessible justice systems (including both formal and informal processes). There was also animated discussion on whether to reflect the target on violence against women as 'reduction of violence against women' or 'elimination of violence against women'.

Drawing on the background materials for the meeting, each of the working groups proposed targets and indicators related to their areas of focus and presented them in plenary.

Proposals of Targets and Indicators

Below is a list of potential targets and indicators discussed in the working groups. Some consideration was given within the groups on how indicators should be developed, what criteria should be applied, which sources of data are relevant. The below list of proposed targets and indicators will be further refined to develop a concrete proposal on relevant targets and indicators for the post-2015 development framework, taking into consideration questions of trade-offs, factoring in the possibility of unintentional consequences and perverse incentives, and prioritizing the indicators which would best reflect the experiences of people in realizing the rule of law in the context of sustainable development.

	Possible Formulation of Targets	Possible Indicators/Data Sources
Accountability of Public Services	<p>Ensure all people can effectively participate in decision-making and monitor service delivery in formal and informal public institutions at all levels</p> <p>Provide all people with free legal identity documentation, such as birth registration cards (or reduce the number of people without secure legal identity)</p> <p>Capacity, professionalism and accountability of public sector</p>	<ul style="list-style-type: none"> • Existence of polices and legal frameworks requiring public participation in decision-making and service delivery • Right to information (existence of right to information legislation, # claims, # rejected requests for information, proportion of requests completed in given time) • Public awareness and education/literacy and accessible laws • Oversight mechanisms involving stakeholders (% participation, # claims, inclusion of marginalized groups) • Enabling environment for civil society index • Participation in political processes, e.g. elections • Grievance redress is available and functioning (existence of grievance redress mechanisms e.g. administrative courts, # of cases handled, etc.) • Existence of legal framework for universal birth registration for all children under 5 • % children registered • Legal framework recognizing fair, transparent process for obtaining ID • Percentage of people who possess legal ID • Number of requests for ID rejected • Number of people denied access to services due to lack of ID (to avoid perverse incentives) • Level of trust and confidence surveys • Corruption (experience & perception) <ul style="list-style-type: none"> ○ Number of prosecutions • <u>Equity</u> and accountability of access to services <ul style="list-style-type: none"> ○ Monitoring and redress mechanisms ○ Disaggregated data by groups, gender, etc. • Percentage of trained public services (initial and continuing training) • Merit-based selection & advancement / Impartial and clear placement exams • Internal performance evaluation • Sanctioning systems • Percentage of budget dedicated to institutions

		<ul style="list-style-type: none"> • Oversight mechanisms (internal and external – civil society, parliament, etc.) • Legal redress for complaints dealing with public services • Processes for pursuing grievances with basic services must be simple, accessible, impartial, independent, open and accountable, independent, efficient and respect due process • Public awareness of redress mechanisms – public outreach • Performance and evaluation (initial and continuous training) • Disciplinary systems
<p>Access to Justice</p>	<ul style="list-style-type: none"> • Ensure accessible, well-resourced, impartial, independent and accountable justice systems • Ensuring access to a plurality of justice services looking at both supply and demand side • Accessible (geographical; cost; socio-cultural/multi-cultural; etc.), Independent justice systems that respect due process rights/human rights (also efficiency/expeditiousness, equality, transparency) • Improve the capacity, professionalism, and accountability, of law enforcement and justice institutions. • Ensure access to security and justice institutions 	<ul style="list-style-type: none"> • Decrease by percentage the number of people who fail to report a grievance or case, for the following reasons: financial reasons; lack of confidence and trust in justice mechanism; lack of access to justice mechanism because of geography, gender, language, efficiency; lack of knowledge of options or processes (surveys) • Legal infrastructure that is diverse, inclusive and gender-sensitive (Increase participation in shaping justice options) <p>Indicators could examine:</p> <ul style="list-style-type: none"> ▪ Likelihood to report a grievance ▪ Number of people going through justice processes ▪ Inclusion of views into the legal system ▪ Improving attitudes ▪ Increased knowledge ▪ Participatory systems ▪ Range and coverage of justice institutions ▪ Costs ▪ Budgets ▪ Disaggregated data ▪ Use of ICTs – e.g. possibility to access courts/resolve disputes through the internet <ul style="list-style-type: none"> • Percentage of people who want representation who are represented • Do (i) laws, (ii) policies, and (iii) practices guarantee equal treatment of various segments of the population? (Freedom House - Freedom in the World) • Judicial independence score (Source: WEF-GCR /Bertelsmann Transformation Index (BTI)) • Average length of time spent in pre-sentence detention • Suspension or arbitrary application of the rule of law and widespread violation of human rights score (Source: Fund for Peace) • Ability of poor people to appeal judicial decisions in serious offense cases (Source: piloted by Vera Institute of Justice) • Separation of powers (Source: Legatum Foundation’s Legatum Prosperity Index) • Percentage of cases decided with a time-frame of x months* (danger of perverse incentives) • Population perception indicator – w.r.t. accessibility experience, attitude (disaggregated) • Population perception indicator w.r.t. equal treatment/access – experience, attitude (disaggregated) • Population perception indicator of judicial impartiality (experience, attitude) • Population perception indicator of judicial promptness within a reasonable time (experience, attitude)

	<p>that are professional, accountable and show integrity</p> <ul style="list-style-type: none"> • Ensure justice systems are accessible to women • Ensure that justice systems are accessible to ethnic groups • Ensure that rulings take on gender and ethnic perspectives 	<ul style="list-style-type: none"> • Population perception indicator of judicial enforcement (experience, attitude) – users or all • Outcome variance on a claim/dispute regarding sides from diverse income levels • Do you have confidence in the judicial system and the courts? (Source: Gallup world poll) • Administrative indicator, e.g. number of public defenders/paralegals • Administrative data on enforcement* • Fees, grants • Expert assessment of statutory provisions regarding judicial appointments • Expert assessment of whether enforcement is provided • Expert assessment of quality of due process according to schedule • Criminal and Civil justice scores (including effectiveness, timeliness, impartiality, corruption, due process and rights of the accused) (Source: World Justice Project) • Protocols on gender and ethnic perspective review on judicial rulings • Proximity to courts, Geographical access • # of cases submitted per 100000 • # of judges per 100000 • # public defense lawyers per 100000 • % of total detainees in per sentence detention • % of people with family related problems who report to formal justice systems • Average length of time spend pretrial detention • Average length of time pre-sentencing detention • Perception of CSO's about government responsiveness to suggestions for improvement of the legal system. • % of defendants represented by legal counsel (Private/ public) • % of people who paid a bribe to security/justice official in the past 12 month • % of justice/security officials reporting undue influence in discharge of duties • % of victims of violent crime who reported victimization • % of cases being resolved within one year (in the first instance). • % of people who manifest trust in the justice system (a) general perception, b) users perception, c) women perception) • Percentage of women who are able to achieve a remedy as complainants (in criminal and civil matters) disaggregated by geographic location, economic status, etc. • Percentage of ethnic minorities who are able to achieve a remedy as complainants (in criminal and civil matters) disaggregated by geographic location, economic status, etc. • Percentage of court days dedicated to matters relating to violence against women • Legal aid and assistance is available to women complainants of sexual violence and family law applicants at all stages, including alternative dispute resolution
<p>Violence Reduction</p>	<p>Reduction of violent deaths (deaths from aggression, direct deaths due to armed conflict, deaths from legal intervention)</p>	<ul style="list-style-type: none"> • Reduce by X% the number of violent deaths per 100,000 (intentional homicide rate, direct deaths from armed conflict, legal interventions) • Firearm deaths per 100,000 (not including suicides, accidents) • Reduce the number of victims of violent death who are children • Reduce the number of victims of violent death who are women

	<p>Reduction and prevention of violence against women, children and vulnerable groups</p> <p>Prevent and eliminate all forms of violence against women and girls</p>	<ul style="list-style-type: none"> • Reduce by % the number of women who declare to have been subjected to physical or sexual violence over the last 12 months (through victimization survey) • Percentage of population who accept capital punishment for children • Reduce the number of children recruited into armed forces, non-state armed forces, illegal armed groups such as criminal gangs • Percentage of women who experienced physical or sexual violence in the past 12 months (UN Women) • Percentage of women who seek a remedy for violence perpetrated against them (human rights-based) – disaggregated by economic status, ethnicity, indigenous, age, disability, sexual orientation, marital status • Existence of fully funded operationalized National and local plans of action on the elimination of violence against women (BP4A) • Proportion of budgets allocated to plans of action on violence against women • Percentage of women who report feeling safe at all times in public spaces and at home • Percentage of women who report confidence in legal systems to achieve rights based remedies • Percentage of people who think a woman can refuse to have sex with her husband under any circumstances, disaggregated by sex • Percentage of law enforcement officials (judges, police, prosecutors) who are women • Existence of autonomous women’s rights movements able to operate freely in country • Percentage of public officials who undertake human rights and gender equality capacity development with civil society • Number of weapons available in community (both state and non-state) • Percentage of national budgets spent on military • Comparison of military budget to gender budgeting • Assessing human right compliance of judicial outcomes
	<p>Enhance the capacity of community based non-violent conflict resolution mechanisms (formal and informal)</p>	
	<p>Stem the international risk factors of violence</p>	<ul style="list-style-type: none"> • Reduce the international illicit flow of arms and ammunition • Reduce the international illicit flow of drugs and related financial operations
<p>Gender Equality</p>	<p>Laws, policies and practices are non-discriminatory and promote substantive equality</p>	<ul style="list-style-type: none"> • Women have equal inheritance, property rights • Family laws including, divorce, custody, property exist and apply equally to men and women • Existence of legislated right for women to decide the timing, spacing of children. • All legislation is subjected to gender audit prior to enactment • Laws and practices that contravene CEDAW and other IHR are deemed repugnant • Percentage of women’s rights organisations / movements involved in drafting (and empowering women to participate) in consultative processes for legislation • Public information on sexual and reproductive rights and health is accessible and promoted
	<p>Prevent child / early marriage</p>	<ul style="list-style-type: none"> • Existence of laws prohibiting marriage before the age of 18 (in line with CRC) • Percentage of women aged 18-25 who were married (de jure or de facto) before 18

	<ul style="list-style-type: none"> • Average age of mother at birth of first children
Increased access and control over land, resources, energy for women and men.	<ul style="list-style-type: none"> • Percentage of women and men who have protected and/or documented rights to use and control land. • Percentage of land that is appropriated by governments or corporations
Workers are paid a living wage	<ul style="list-style-type: none"> • Legislated minimum wage is set at a rate sufficient to support dignified life for 4 people (using living wage metrics) • Percentage of unpaid care work that is performed by women and men • Percentage of workers (by sex) earning less than minimum wage • Percentage of minimum wage compared to average wage • Percentage of women who have access to fully funded maternity leave of at least 18 weeks
Labour rights protection extended to all workers	<ul style="list-style-type: none"> • Percentage of workers who are covered by national labour codes – including 8 hour day, Occupational Health & Safety, nursing rights, • Inclusion of domestic workers, informal sector in national labour codes • Percentage of people, by sex, able to access unemployment, pension, superannuation and insurance benefits • Percentage of workers, by sex, who are members of trade unions or able to bargain collectively
Promote participation in decision making at all levels	<ul style="list-style-type: none"> • Percentage of women who have a say in decisions over house-hold spending • Percentage of people who think important decisions in the household should be made by both men and women • Percentage of women's rights representatives in multi stakeholder development governance bodies • Proportion of women in national parliaments (existence of Temporary Special Measures) • Proportion of women in local governments • Proportion of women in regional and international governance bodies • Proportion of women trade union leaders • Proportion of women who are members of civil society organisations • Proportion of media professionals who are women
Create new GLOBAL GOVERNANCE systems and institutions that are democratic, accountable to people and promote equitable and sustainable development (transparent, participatory, non-discrimination, CBDR rule making procedures)	<ul style="list-style-type: none"> • Percentage of disputes brought from developing countries • Percentage of disputes where complainants are women • Trade agreements have human rights as central objectives and primacy • UPR / TB reporting
Private sector accountability is enforced	<ul style="list-style-type: none"> • Percentage of tax paid on profit • Subsidies • Bribery and corruption • Transfer pricing • Tax havens

Next Steps and Outcome

The discussions on next steps and follow up actions in plenary produced three main recommendations:

- First, there was significant support for ***piloting targets and indicators at the country level*** with a view to illustrating the potentialities of nationally owned data collection on rule of law in the context of the post-2015 discussions. Participants noted the importance of not limiting the process to data that is already available, but to enable international agencies, including UNDP, to support the collection of data through launching or supporting existing justice reform processes. This might include supporting governments ***to develop their capacity to collect data related to rule of law outcomes*** within national development plans. Suggestions were also made to link this process to ***national development planning processes or national human rights action plans***. The ***development of a basket of indicators*** was recommended, similar to the initiative supported by UNDP with the African Union on governance and conflict-related data. Initiatives such as ***pilot legal aid projects*** may also help in informing national processes. Support for gathering ***disaggregated data***, such as on access to justice for women and indigenous groups, was also discussed. Pilots should include ***different actors*** such as government, CSO, and statistical entities. Engagement with these national actors directly would be a first step towards identifying countries interested in piloting this initiative with active national ownership, including in different development contexts.
- Second, it was also recommended that a small ***expert group*** be constituted to review and vet the proposed targets and indicators emerging from the working groups (Annex II). These could be discussed virtually to refine and further work on the specific targets and indicators, in order to develop a refined and credible list of key target and indicator recommendations. It may be useful in this process to also identify data already collected by statistical institutions.
- Third, it was stressed that all possible opportunities should be used to feed the outcomes of the Dialogue into the global discussions on post-2015 including the upcoming Open Working Group on Sustainable Development's session on rule of law in February 2014 and the Secretary-General's consultation on the linkages between the rule of law, peace and security, human rights and development.

Finally, the meeting concluded by **Marta Ruedas, Deputy Director for UNDP's Bureau for Crisis Prevention and Recovery** and **Magdy Martínez-Solimán, Deputy Director for UNDP's Bureau for Development Policy** facilitating a discussion of the Outcome Statement which highlighted the key points emanating from the Dialogue (Annex I).

List of Annexes

ANNEX I – Outcome Statement

ANNEX II – Proposed Targets and Indicators

ANNEX III - Agenda

ANNEX IV – Participants List

ANNEX V – Participant Bios

ANNEX VI - Concept Note

ANNEX VII – High Level Opening Session Speeches

Annex VIII –Presentations

ANNEX IX - Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda

ANNEX X – Background Paper on Justice for the Global dialogue on Rule of Law and the Post-2015 Development Agenda

ANNEX XI – Background Paper: Insecurity and violence in the post-2015 development agenda

ANNEX XII – Background Paper: The linkages between rule of law and development: an empirical intimation

ANNEX XIII – Notes from the Working Group Discussions

Annex XIV - Summary of the E-Consultation on Rule of Law and the Post-2015 Development Agenda

Annex XV – Submissions to the Dialogue

Annex XVI - Additional Resources