

Participating in law reform for SDG16+ implementation

Law reform is essential in order to achieve some of the SDG16+ targets and to create an enabling environment that supports overall SDG16+ implementation

Overview

Law reform (or legal reform) is the process of analyzing current laws and advocating for and carrying out changes to them, usually with the aim of enhancing justice or efficiency. There are four main methods of reforming the law: (a) repeal (removal or reversal of a law); (b) creation of new law; (c) consolidation (combination of several laws into one); and (d) codification (collection and systematic arrangement, usually by subject, of the laws of a state or country).

Law reform is essential in order to achieve specific SDG16+ targets such as targets 10.3 and 16.b, which explicitly call for law reform.⁹⁰ Depending on the country, law reform may also be needed to repeal discriminatory laws against women and girls (SDG target 5.1), prosecute human and child trafficking (SDG targets 8.7 and 16.2), protect labour rights (SDG target 8.8), prosecute bribery and corruption (SDG target 16.5) and ensure freedom of information (SDG target 16.10). Law reform is also essential to create an enabling legal framework and environment to support overall SDG16+ implementation. For example, law reform can be used to ensure that non-governmental stakeholders can provide input into public policies and laws related to peace, justice and inclusion. It can also be used to ensure that there is transparency in government decision-making processes and budget allocations related to SDG16+ implementation.

The process for law reform will vary from country to country. In some cases, law reform will be led by the executive branch of government. In other cases, members of the parliament or legislature will have the power to propose laws, either due to the legislature's own law-making powers or through a private members' bill. In most countries, once a draft law is tabled for consideration by the legislature, it will be referred to a specific legislative committee for review.⁹¹ As part of its review process, a legislative committee may organize public hearings or consultations to allow civil society and other stakeholders to provide feedback on the draft law before it is revised and presented in the legislature for final approval and adoption.



⁹⁰ Target 10.3 states "Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard", while target 16.b states "Promote and enforce non-discriminatory laws and policies for sustainable development". United Nations (2015). *Transforming our world: the 2030 Agenda for Sustainable Development*. General Assembly Resolution A/RES/70/1. Available at: <https://sdgs.un.org/2030agenda>

⁹¹ For example, a law on organized crime may be referred to the law and justice committee.

Putting it into practice

Civil society actors wishing to engage in law reform as a means to advance peaceful, just and inclusive societies should consider taking the following actions:

1. **Compare SDG16+ targets with existing laws to identify inconsistencies and gaps** – Do existing laws support or impede the achievement of certain SDG16+ targets? Do all people benefit from the protection of existing laws, or are certain groups excluded based on characteristics such as gender, age, race, ethnicity, migratory status or disability? Are there gaps in existing laws such that new laws are needed to achieve greater peace, justice or inclusion? Your SDG16+ gap analysis should help you to identify potential areas for law reform and prioritize them.

TIP:



Anti-discrimination acts, bills of rights and constitutional protections for certain groups can often be used as a basis to challenge and reform discriminatory laws.

2. **Raise awareness of existing laws in relation to SDG16+** – You should raise awareness of existing laws and rights among citizens, including how they positively or negatively impact the advancement of peaceful, just and inclusive societies. By raising awareness, you are more likely to be successful in gathering support for your proposals for law reform. Awareness-raising efforts can target general members of the population as well as those in positions of power, such as members of the government, legislature and judiciary.



3. **Engage with relevant ministries and legislators** –

The most common avenue for pursuing law reform is by working with the relevant ministries within the executive branch of government, which are responsible for law reform. It may also be possible to work with individual legislators with the power to change laws. To engage, you should:

- a. Determine how the law-making process works and which body within the government or legislature is responsible for actually drafting laws. Often, one ministry will be responsible for a particular SDG16+ issue, while another ministry will be responsible for legislative drafting; in such cases, it is important to work with both ministries;
- b. Educate and lobby key ministers, legislators and other government officials on why law reform is needed in relation to your SDG16+ issue;
- c. Offer technical advice or support to the ministry, legislator or office responsible for legislative drafting to develop a proposal for law reform. Support may include providing research and analysis of proposed laws, or providing a draft law or model laws from other jurisdictions, which can be adapted to your local context;
- d. Offer practical support to the ministry, legislator or office responsible for legislative drafting to undertake or facilitate public consultations to inform the draft law; and
- e. Once a draft law is tabled in the legislature for consideration, participate in any public hearings or consultations on the law by making oral or written submissions to the relevant legislative committee.

Engaging in law reform to advance peaceful, just and inclusive societies



- Consider seeking free or *pro bono* legal assistance from volunteers (e.g. law students or professors), private law firms or international NGOs that have expertise in law reform in relation to your SDG16+ issue.
- Try to engage the ministry or legislator responsible for legislative drafting early in the process so that they will prioritize the draft law and alert you of any opportunities to provide input.
- Consider template laws developed by intergovernmental bodies or NGOs for inspiration for your SDG16+ law reform. For example, ARTICLE 19 provides a model freedom of information bill,⁹² while the United Nations Office on Drugs and Crime (UNODC) has developed numerous legislative guides on anti-corruption and transnational and organized crime.⁹³
- Ensure there are opportunities and support for citizens and other people to participate in law reform, especially vulnerable and marginalized groups affected by your SDG16+ issue.

Legal empowerment

Legal empowerment enables people to know, use and shape the law in order to secure justice. It is about strengthening the capacity of all people to exercise their rights – either as individuals or as members of a community – and ensuring that the law is available and meaningful to citizens. Legal empowerment places the power of the law in the hands of the people.⁹⁴

Approaches to legal empowerment include legal education, information, advocacy, organizing and mediation. It is often promoted by a frontline community of paralegals who are trained to assist citizens in finding concrete solutions to their justice-related problems. These approaches engage the grassroots level, which is especially important for SDG16+ implementation. They focus not only on achieving a just outcome, but also, crucially, on enabling people to engage in law-related processes. Legal empowerment practitioners do not say, “I will solve this problem for you,” but rather, “I will work with you to solve this problem and give you the knowledge and tools you need to address such problems in the future.”⁹⁵

CASE STUDY:

Accelerating Action to Strengthen Afghanistan's Legal Aid System

International Legal Foundation

In partnership with the International Legal Foundation (ILF), the government of Afghanistan is seeking to build a more effective and sustainable legal aid system. The partnership will center on implementing Afghanistan's 2019 Legal Aid Regulation, which provides a roadmap for transforming the current system by increasing its independence, capacity to monitor and evaluate the quality of legal aid services, and ability to expand services nationwide. To date, ILF has implemented a wide range of programs in the country to expand access to legal aid, including working with local police departments to ensure adequate legal representation for detainees, training defense lawyers, and providing quality representation for thousands of Afghans.

To read the full-length version of this case study, visit www.sdg16toolkit.org/case-studies

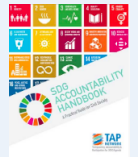
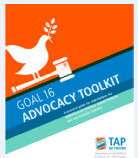
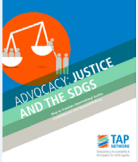
⁹² Article 19 (2006). Model freedom of information law. Available at: <https://www.article19.org/resources/model-freedom-of-information-law/>

⁹³ For more information, see: Transparency, Accountability and Participation (TAP) Network (2016). *Goal 16 Advocacy Toolkit: A practical guide for stakeholders for national-level advocacy around Peaceful, Just and Inclusive Societies*, p. 29. Available at: <https://tapnetwork2030.org/goal-16-advocacy-toolkit/>

⁹⁴ Transparency, Accountability and Participation (TAP) Network (2015). *Advocacy: Justice and the SDGs: How to Translate International Justice Commitments into National Reform*, p. 6. Available at: https://tapnetwork2030.org/wp-content/uploads/2015/04/TAP_Advocacy_JusticeandtheSDGs.pdf

⁹⁵ Transparency, Accountability and Participation (TAP) Network (2015). *Advocacy: Justice and the SDGs: How to Translate International Justice Commitments into National Reform*, p. 7. Available at: https://tapnetwork2030.org/wp-content/uploads/2015/04/TAP_Advocacy_JusticeandtheSDGs.pdf

Key TAP Network resources:

<p>SDG Accountability Handbook: A Practical Guide for Civil Society (TAP Network, 2018)</p>	<p>This handbook provides guidance on the different approaches and steps that can be taken by civil society to ensure national government accountability for the SDGs. It includes a chapter on ‘Pursuing Law Reforms, Strategic Litigation and Legal Empowerment.’</p> <p>Available at: https://sdgaccountability.org/</p>	
<p>Goal 16 Advocacy Toolkit(TAP Network, 2016)</p>	<p>This toolkit provides civil society and other non-governmental stakeholders with guidance on how to engage with their governments and other local, regional or international stakeholders to support the planning, implementation, follow-up and accountability of SDG 16. It includes a section on ‘Participating in Law Reform.’</p> <p>Available at: https://tapnetwork2030.org/goal-16-advocacy-toolkit/</p>	
<p>Advocacy: Justice and the SDGs, How to Translate International Justice Commitments into National Reform (TAP Network, 2015)</p>	<p>This toolkit – aimed at civil society, activists and policy practitioners who are working to promote legal empowerment and access to justice – provides a step-by-step guide on how to create a national justice plan.</p> <p>Available at: https://tapnetwork2030.org/wp-content/uploads/2015/04/TAP_Advocacy_JusticeandtheSDGs.pdf</p>	

Key resources:

<p>The SDG-enabling Law Reform Drive (Legal & Economic Empowerment Global Network (LEEG-net)</p>	<p>This global initiative – launched by a consortium of international law firms – seeks to help developing countries undertake law reforms aimed at enabling effective implementation of the SDGs through their national action plans.</p> <p>Available at: https://www.leeg-net.org/sdgs-enabling-law-reform-drive</p>
<p>Legal Empowerment Network (Namati)</p>	<p>Convened by Namati, the Legal Empowerment Network is the largest community of grassroots justice defenders in the world. It brings together more than 2,400 organizations and 9,000 individuals from over 160 countries, all working to advance justice for all. Membership is open to those who help others to know, use or shape the law.</p> <p>Available at: https://namati.org/network/</p>