SDG 16

Data Initiative

Report 2021

Impact of the pandemic on measuring progress towards SDG 16:
Looking forward, tackling obstacles

GLOBAL FORUM FOR MEDIA DEVELOPMENT

GOVERNANCE DATA ALLIANCE

INSTITUTE FOR ECONOMICS & PEACE

INTERNATIONAL IDEA INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE

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World Justice Project

PRIO

HiiL innovating justice

TRANSPARENCY INTERNATIONAL the global coalition against corruption

World Vision

ID 2020

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Introduction

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The collection of non-official data on SDG 16 is key to complementing and filling gaps left by official sources, particularly in non-democratic contexts, where government data often suffers from a lack of transparency and is more likely to be biased (Martinez 2021).

In 2015 the United Nations member states adopted the ambitious Sustainable Development Goals (SDGs), to be achieved by 2030, including SDG 16, on peaceful, just and inclusive societies. Recognizing the need to support efforts to measure progress on the 2030 Agenda, 17 organizations came together to create the SDG16 Data Initiative, a consortium dedicated to the implementation and open tracking of progress towards the SDG 16 targets, using non-official data. The collection of such data is key to complementing and filling gaps left by official sources, particularly in non-democratic contexts, where government data often suffers from a lack of transparency and is more likely to be biased (Martinez 2021). In addition to this, the clampdown on freedom of expression that has taken place in many countries both prior to and during the pandemic has led governments in non-democratic or democratically challenged contexts to both censor and fabricate news reports and social media content in order to manipulate the information environment in their favour (King, Pan and Roberts 2017: 484–501).

The SDG16 Data Initiative has collaborated throughout 2021 to continue to assess challenges and opportunities to advance towards the fulfilment of the 2030 Agenda's promise of peaceful, just and inclusive societies and the achievement of SDG 16, which—just like the 2030 Agenda as a whole—has encountered an uphill race during the ongoing Covid-19 pandemic.

The consortium presents its fifth annual *Global Report*, which provides a broad range of stakeholders, including governments, UN officials and civil society, with a resource to help them understand methodologies designed to support the process of measuring progress on SDG 16 targets. It also identifies gaps in both the implementation and monitoring of SDG 16, proposing recommendations to accelerate implementation and ways to measure it, in a context characterized by severe challenges to the achievement of the 2030 Agenda for Sustainable Development.

This introduction offers a brief overview of the main findings of the following chapters, written by experts from the SDG16 Data Initiative's partner organizations. Chapter 1, by the International Institute for Democracy and Electoral Assistance (International IDEA), presents an overview of indicators from the Global State of Democracy Indices, which provide complementary indicators to measure progress on SDG Targets 16.3; 16.5, on reducing corruption and bribery in all their forms; 16.6, on developing effective, accountable and transparent institutions at all levels; and 16.7, on ensuring responsive, inclusive, participatory and representative decision-making at all levels. Chapter 2, by the Peace Research Institute Oslo (PRIO), covers SDG 16.1, highlighting research on government-produced disinformation and censorship, and honouring the important work done by journalists worldwide, while also analysing challenges to data collection during the Covid-19 pandemic. The chapter also analyses trends in violent conflict in past years and ends by highlighting potential innovations in data collection that could enhance independent monitoring of SDG 16. Chapters 3 and 4, by the Centre

for Law and Democracy and the Global Forum for Media Development analyse data collection methods and assess progress on SDG 16.10, the challenge of disinformation during the pandemic (Chapter 3), and on access to information (Chapter 4). Chapter 5, by the World Justice Project (WJP), uses data from the recently launched *World Justice Project Rule of Law Index® 2021* to analyse progress on SDG 16.3, on promoting the rule of law at the national and international levels and ensuring equal access to justice for all. The chapter also points to new types of data collection methods that can help improve independent reporting on this target.

The SDG16 Data Initiative would like to thank the World Justice Project, the Peace Research Institute Oslo, the Centre for Law and Democracy, International IDEA and the Global Forum for Media Development for their contributions to this report. The consortium would also like to express its appreciation to the Office of the Permanent Observer for International IDEA to the United Nations for its coordination role for the SDG16 Data Initiative in 2021, making this report a reality.

Methodological considerations in measuring progress on SDG 16

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Despite the challenges posed by the pandemic, technological advances have enabled the roll-out of new data collection methods and tools that can greatly enrich the non-official data sources on SDG16.

With worldwide limitations on travel, lockdowns and reduced capacity on the part of government offices in many countries and difficulties in conducting surveys during a pandemic (analysed in Chapters 2 and 5), 2020 and 2021 were extraordinarily difficult years to track progress on SDG 16, for both national statistical offices and non-governmental organizations.

The complications associated with the reduced capacity of national statistical offices due to the Covid-19 pandemic reaffirmed the increased relevance of robust non-official data collected by civil society and other entities as a fundamental tool for building and proposing a holistic and independent view of progress under SDG 16, focusing specifically on Targets 16.1, 16.3, 16.5, 16.6, 16.7 and 16.10. However, non-governmental data collection has also faced significant challenges during the pandemic, because of both the difficulties in conducting surveys and polls in a context of lockdowns and travel restrictions and the reduced capacity of—and in some cases suspension of access to information services by— government agencies (Chapters 2, 4 and 5). Moreover, many countries also used the pandemic as a guise for unnecessary limitations on the freedom of expression, making it harder for civil society, journalists, experts and the public to access and share information and make their voices heard in many contexts (Chapters 2 and 4).

International IDEA's Global Monitor of Covid-19's Impact on Democracy and Human Rights reports that over half the countries in the world have taken actions to limit freedom of expression during the pandemic (International IDEA Replace with: International IDEA 2020c), and V-Dem Institute's reports that two thirds of countries have imposed restrictions on the media (Alizada et al. 2021). These limitations have occurred in a global context where freedom of expression and independent media were already under severe strain prior to the outbreak of the pandemic (International IDEA 2019). Limitations on freedom of expression during the pandemic have often been justified by the need to limit the spread of disinformation on Covid-19, which has undermined efforts to combat the pandemic (Chapter 3). Moreover, International IDEA's publication *Global State of Democracy 2021* reports that authoritarianism is on the rise and that this phenomenon has been turbocharged during the pandemic, with non-democratic and democratically backsliding governments resorting to ever more brazen tactics to silence dissent and independent

reporting, measures that have been more easily justified by the pandemic (International IDEA 2021).

Members of the SDG 16 Data Initiative have taken various measures to counteract these data collection challenges. PRIO (Chapter 2), which collects data on SDG Target 16.1.2 through the Armed Conflict Dataset, in collaboration with the Uppsala Conflict Data Program, uses independent news sources as one of its main sources to track conflict events. Verifying information in areas suffering from increased suppression of information, such as the Xinjiang region of China, has proven increasingly challenging, forcing the use of alternative sources of information such as leaked documents,[1] satellite imagery and information provided by escapees (Amnesty International 2021). Despite these alternative information sources, it is likely that the current data fails to capture all violent actions that are taking place and therefore underreports the number and severity of conflicts.

Prior to the outbreak of the pandemic, the Freedom of Information Advocates Network (FOIAnet) had developed a methodology for assessing implementation of right-to-information laws and Indicator 16.10.2, deepening the assessment provided by the UN Educational, Scientific and Cultural Organization (UNESCO) (Chapter 4). However, the pandemic has challenged the use of this methodology, reducing the number of country assessments that could be performed and slowing down the process in those cases where an assessment was possible. Similarly, the Centre for Law and Democracy, with the support of the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), developed a multipronged method to evaluate access to information (using literature reviews, direct assessments of published information and of decisions by oversight bodies, key informant interviews, office visits and blind-test requests for information), which has faced severe delays due to pandemic challenges.

Despite these challenges, both the pandemic and technological advances have enabled the rollout of new data collection methods and tools that can greatly enrich the non-official data sources on SDG 16. The WJP recently launched its Atlas of Legal Needs Surveys, a new resource that serves as a critical source of data on SDG Indicator 16.3.3, particularly as countries work to generate their own official

data for this new indicator. The Atlas is a directory of legal needs surveys conducted globally since 1993. Including more than 90 studies covering 108 countries and jurisdictions, the Atlas can provide decision-makers with key data on the state of access to civil justice globally.

Big data and citizen-generated data are two alternative data sources that can be used for additional insights into the SDG indicators. While such alternative data sources are not frequently utilized in the justice and rule-of-law sectors, there are examples of such data sources being utilized to track other SDG indicators (Hassani et al. 2021: 17–18). Governments' use of citizen-generated data (CGD) can improve overall data quality and usability in multiple ways: CGD enables greater coverage and the conservation of resources and improved data quality, and it also deepens collaboration with non-governmental actors (Wilson and Rahman 2015: 9).

To increase both data precision and its resilience to various obstacles, several academic institutions have also explored the use of the so-called crowd-coding option (particularly to monitor conflicts, SDG 16.1) (Marquardt et al. 2017). Crowd-coding systems use online software that anyone can access to report an incident, such as an act of violence.[2] Combining such crowd-coded information with existing data and forecasting models could improve the ability to foresee when and where violence will occur and, in turn, prevent it.

International IDEA's Global State of Democracy Indices, which aggregate 116 indicators from 12 different data sets into 28 indicators of democratic quality, have continued to provide data on progress on various SDG 16 targets during the pandemic. As most of the data sources use standards-based coding by research groups and analysts, observational data and composite measures, they provide a key advantage, as they do not require in-person interviews and could be done remotely during the pandemic, which enabled the publication of the data set even under pandemic circumstances.

Progress on SDG 16

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With regard to SDG 16.1, on reducing all forms of violence and related death rates everywhere, 2020 represented a setback for global peace. Overall, more people lost their lives due to conflict in 2020 than in 2019. Several countries saw a resurgence of old, inactive conflicts, such as Armenia and Azerbaijan, China and India, and Ethiopia. An east–west belt of conflict has appeared across Africa over the past decade, and the continent is now home to more than half of all conflicts that involve governments. Furthermore, the cartel war in Mexico has become even more violent, claiming more than 16,000 lives. For the second year in a row, Mexico experienced the second-most conflict-related deaths in the world, surpassed only by war-torn Afghanistan.

The WJP, through its *WJP Rule of Law Index 2021* shows that, with less than a decade left to achieve the 2030 Agenda, the data indicates severe challenges to achieving Target 16.3, on the rule of law and equal access to justice for all. The Covid-19 pandemic has further complicated efforts to advance the rule of law and access to justice, with public health measures intended to limit the spread of Covid-19 also curtailing the rule of law and access to justice by reducing constraints on government powers, limiting rights and freedoms, and decreasing access to critical services, such as justice. The WJP's data shows that, for the fourth consecutive year, more countries declined in their overall performance on the rule of law than improved (WJP 2021a). Nearly three quarters (74.2 per cent) of countries covered in the *WJP Rule of Law Index* performed worse in the 2021 edition than they did the year prior. These declines impact a large portion of the global population: approximately 6.5 billion people live in countries where the rule of law declined in the past year. Relative to the *Rule of Law Index 2020*, declines in constraints on government powers, civic space, timeliness of justice and absence of corruption were observed in more than half of the countries surveyed. These findings from the *WJP Rule of Law Index 2021* reinforce troubling trends that were first observed prior to the Covid-19 pandemic.

International IDEA's Global State of Democracy Indices point to similar conclusions on challenges to SDG 16.3. The 'access to justice' indicator saw significant declines between 2015 and 2020, with the number of countries with significant declines (19) outnumbering those with advances (11) and reaching an all-time historic high in 2020 (International IDEA 2021b). Moreover, International IDEA's Global Monitor of Covid-19's Impact on Democracy and Human Rights reports that more than two thirds of countries in the world (67 per cent) experienced restrictions on court activities in the form of reduced working hours, fewer cases and/or postponements or closure of cases during lockdowns. International IDEA's Global State of Democracy Indices also indicate that the number of countries suffering from declines in judicial independence in 2020 reached a peak only observed previously in 2013. This follows an upward trend in the number of countries suffering from democratic backsliding in the last decade (International IDEA 2020a).

The pandemic year of 2020 also posed significant challenges to the achievement of SDG 16.5, on reducing corruption, and 16.6, on developing effective, accountable and transparent institutions at all levels. Concerning Target 16.5, the number of countries with increasing levels of corruption grew from 2019 to 2020, while the number of countries with advances declined. International IDEA's Global Monitor of Covid-19's Impact on Democracy and Human Rights has also recorded alleged or confirmed instances of corruption related to procurement of Covid-19-related equipment and medicines or the distribution of vaccines in 44 per cent of countries during 2020 and 2021 (73 countries) (International IDEA 2021c).

With respect to Target 16.6, institutions such as parliaments faced particularly severe challenges, as emergency powers sidelined parliaments to the benefit of executives, at least in the early stages of the pandemic. The number of countries with declines in effective parliaments reached an all-time high of 23 countries (International IDEA 2021b).

While democracy was facing challenges prior to the outbreak of Covid-19, the pandemic has broadened the scope of democratic deterioration, posing challenges to the achievement of SDG 16.7. Indicators of predictable enforcement and social group equality in the Global State of Democracy Indices both saw a record number of countries with declines in 2020. The pandemic has thus contributed to weakening impartial administrations and making policy formulation and enforcement more unpredictable, and it has also increased political, economic and social inequalities.

Electoral processes and institutions have also faced challenges during the pandemic. In 2020, for the second time in the last 20 years, the number of democracies with declines in the quality of their electoral processes exceeded those with advances, with limitations on campaigning and reduced media space unfairly favouring incumbent governments in some countries. Despite these challenges, electoral processes also showed remarkable resilience during the pandemic. Countries around the world learned to hold elections in exceedingly difficult conditions, and they rapidly put in place special voting arrangements to allow citizens to continue exercising their democratic rights.

While these trends paint a bleak picture and pose severe challenges to achieving SDG 16, which has been rendered more critical with the advent of the pandemic, the global community has a unique opportunity to reassess established systems and advance innovative solutions through Covid-19 response and recovery and ultimately to build back better, with a focus on SDG 16 as an enabler of the entire 2030 Agenda. As the world places renewed emphasis on putting the 2030 Agenda back on track, it is essential to prioritize SDG 16 as much as the other goals, as pandemic recovery will require peace, justice and accountable institutions to ensure a sustainable, inclusive and equitable recovery for all, while leaving no one behind.

Using the Global State of Democracy Indices

to measure progress on SDG16

Dr Miguel Angel Lara Otaola, International IDEA

> It is through its basic features—rule of law, fundamental rights and popular sovereignty—that democracy ensures that people are free from oppression and can lead the type of lives they want.

Achieving Sustainable Development Goal (SDG) 16—'promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels'—is not an easy task. Doing so requires myriad actors at the national and local level and work in diverse areas, from creating a context that guarantees personal security and integrity, to more specific developments, such as having independent national human rights institutions and securing the participation and representation of women, youth, Indigenous peoples and persons with disabilities in parliament and other public institutions. Recognizing this complexity, UN member states have set 12 specific targets with 24 official indicators (United Nations 2021c) for measuring progress on SDG 16. These range from significantly reducing all forms of violence and related deaths, to providing a legal identity for all, including birth registration.

Among these 12 targets, 6 are related to the rules and institutions needed to achieve sustainable development. These are Targets 16.1, 'significantly reduce all forms of violence and related death rates everywhere'; 16.3, 'promote the rule of law at the national and international levels and ensure equal access to justice for all'; 16.5, 'substantially reduce corruption and bribery in all their forms'; 16.6, 'develop effective, accountable and transparent institutions at all levels'; 16.7, 'ensure responsive, inclusive, participatory and representative decision-making at all levels'; and 16.10, 'ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements'. Specifically, these targets require a government that guarantees the exercise of fundamental freedoms, popular control over decision-making, the rule of law and equality between citizens. Moreover, these are crucial prerequisites for achieving most of the other targets under SDG 16 and under all 17 SDGs. Without a voice and influence in decision-making, it is less likely that the needs of the people—from quality education (SDG 4) to climate action (SDG 13)—will be well represented and addressed by governments.

Democracy—understood as popular control over decision-making and political equality among those exercising that control—enables development in many ways. First, democracy promotes and facilitates development intrinsically. It is through its basic features—rule of law, fundamental rights and popular sovereignty—that democracy ensures that people are free from oppression and can lead the type of lives they want. The right to vote, to organize, to protest and to speak one's mind matter directly for human dignity. Second, democracy has an instrumental role. It is these 'political and civil rights [that] give people the opportunity to draw attention forcefully to general needs and to demand appropriate public action' (Sen 1999). Facing voters at the next election is a powerful incentive for the government to deliver quality public goods. Public scrutiny and criticism by the media, civil society or individuals is also a good reason to prepare and deliver sound public policy. Therefore, democracy—through the basic liberties and rights it guarantees—is central to the process of identifying and addressing social needs, and therefore for development.

This chapter focuses specifically on Targets 16.3, 16.5, 16.6 and 16.7, which are more directly focused on the rule of law and on achieving effective democratic institutions (including parliaments, the judiciary and electoral management bodies, among others). The UN Statistical Commission has selected nine indicators to measure these targets (see Box 1.1). While useful, these indicators are limited and do not offer a comprehensive measure of the different goals and their underlying concepts. As a result, they need to be complemented by other sources of data. For instance, if we focus on Goal 16.3 (promoting justice and the rule of law), the need to rely on additional indicators is clear: while data on victims of violence, unsentenced detainees and people who access a dispute resolution mechanism are important indicators for the rule of law, the concept is broader. Complementary indicators on access to justice and on the quality of institutions and key principles such as due process are required.

A second issue concerns the limited availability of data, as the SDG tracker database is incomplete for some of the official indicators. Therefore, the next section will outline a proposal for using the International Institute for Democracy and Electoral Assistance's (International IDEA) Global State of Democracy Indices (GSoD Indices) as additional data points that can aid in understanding and measuring these four key democratic targets.

The Sustainable Development Goals and the Global State of Democracy Indices

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The GSoD Indices provide scores on 28 dimensions of democracy —building on 116 source indicators— for 165 countries in the world for the period 1975–2020.

International IDEA's Global State of Democracy Indices systematically capture democratic developments around the world. Based on a comprehensive definition of democracy, understood as 'popular control over public decision making, and political equality' (Skaaning 2020), International IDEA believes there is not a 'one size fits all' democracy, but rather different types of democracy that are relevant for different contexts. As such, according to this definition, the GSoD Indices' measurement of
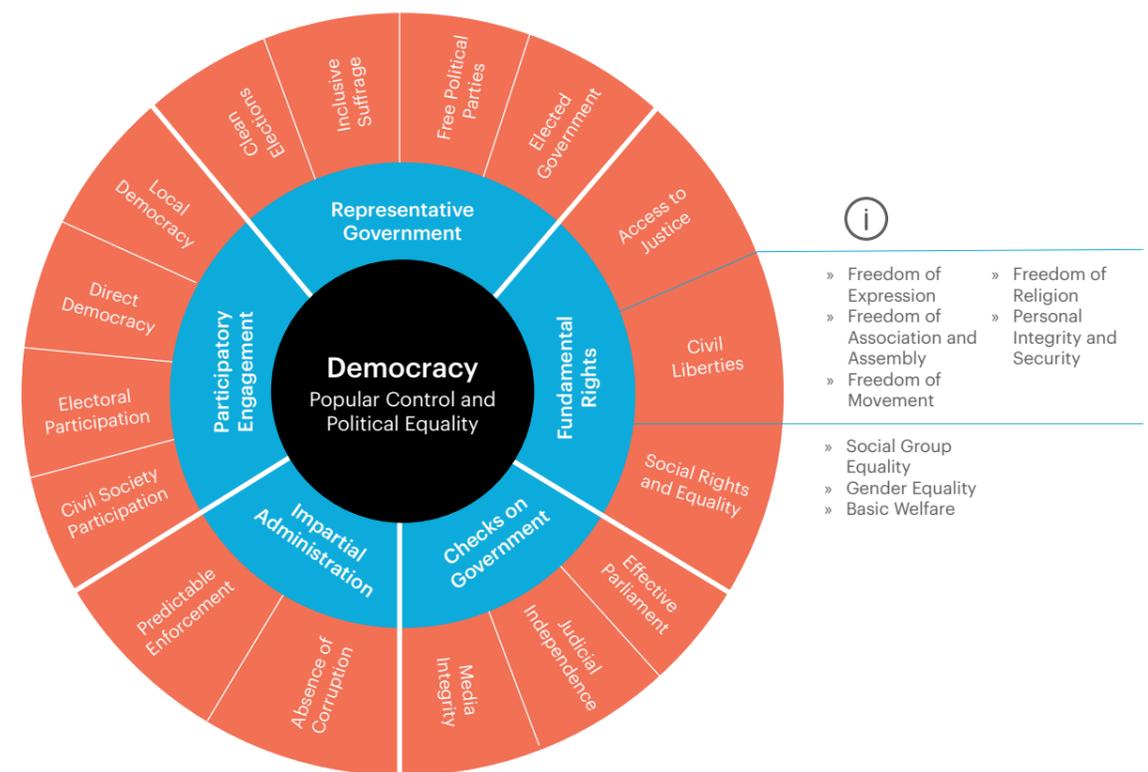
democracy is not limited to specific subtypes (liberal democracy, electoral democracy, social democracy, participatory democracy). Instead, the constitutive attributes of democracy are measured as distinct (but related) indicators. Moreover, democracy is not limited to procedural aspects, such as the holding of free, fair and periodic elections, or to the existence of certain civil liberties. International IDEA's definition of democracy goes beyond this and rests on 'the idea of human dignity or worth . . . and that people are generally the best judges of their own interests' (Beetham 1999).

This definition yields separate, fine-grained indices for five key attributes of democracy: (a) Representative Government, which evaluates the extent to which access to political power is free and equal through competitive, inclusive and periodic elections; (b) Fundamental Rights, which measures fair and equal access to justice, the extent to which civil liberties are respected and the degree to which countries offer their citizens basic welfare and equality; (c) Checks on Government, measuring the extent to which parliament oversees the executive, as well as the extent to which the courts are independent and the media are diverse and uncensored; (d) Impartial Administration, which measures the extent to which the state is free from corruption and whether enforcement of public authority is stable and predictable; and (e) Participatory Engagement, measuring citizens' participation through civil society organizations and in elections, as well as the existence of direct democracy instruments. Box 1.2 shows these five attributes and their 16 constituent subattributes.

The GSoD Indices provide scores on all these—building on 116 source indicators—for 165 countries in the world for the period 1975–2020. Data are drawn from 12 diverse data sets, which are carefully selected to obtain high-quality, up-to-date information. Some of the sources of the GSoD Indices include the Varieties of Democracy (V-Dem) data set, the Political Terror Scale, the International Country Risk Guide and United Nations Statistics, among others. Specifically, the indicators must be produced through transparent and credible data-generating processes, have extensive coverage with scores for the period 1975–2020 and be updated regularly. The Indices are updated annually, and version 5 (the most recent version) includes data up to 31 December 2020.

Conceptual framework of International IDEA's Global State of Democracy Indices

The Global State of Democracy Indices as complementary indicators for SDG 16

TARGET   16·3

PROMOTE THE RULE OF LAW AND ENSURE EQUAL ACCESS TO JUSTICE

Target 16.3: Promote the rule of law and ensure equal access to justice

Target 16.3 is measured through three indicators: 16.3.1, 'proportion of victims of violence in the previous 12 months'; 16.3.2, 'unsentenced detainees as a proportion of overall prison population'; and 16.3.3, 'proportion of the population who have experienced a dispute in the past two years and who accessed
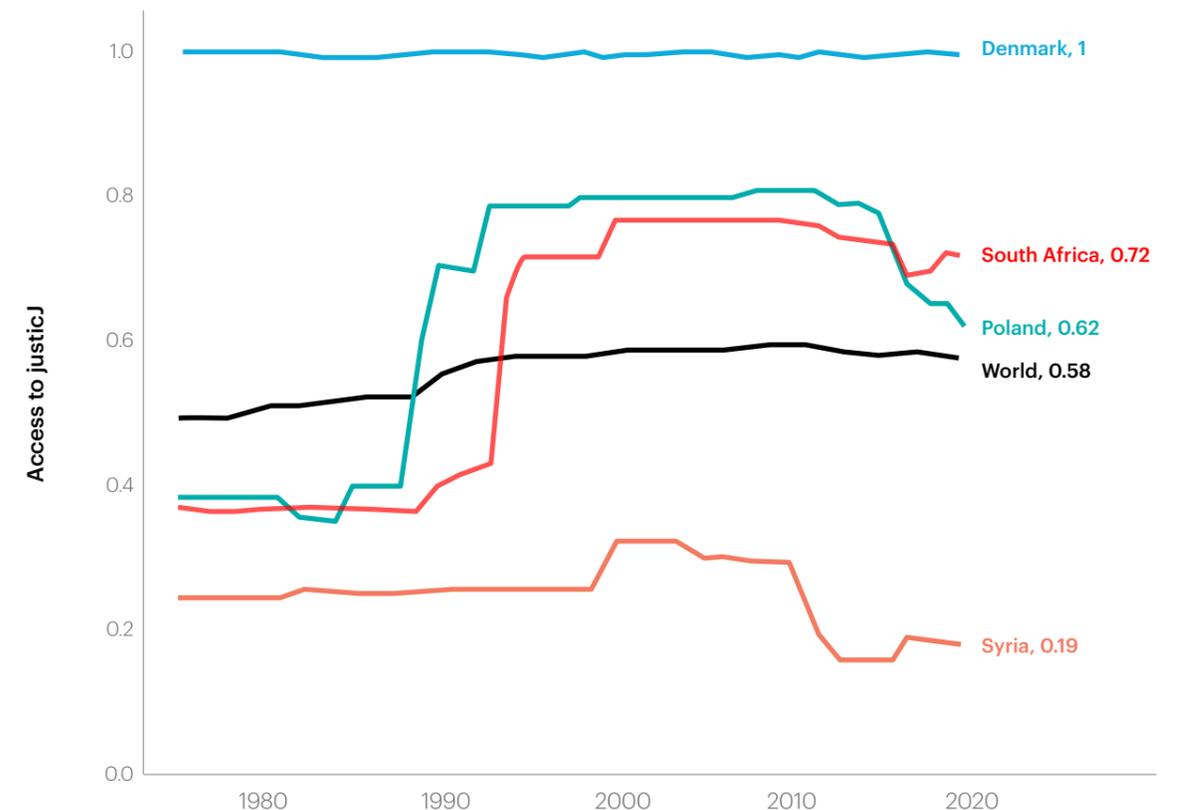
a formal or informal dispute resolution mechanism'. However, the concept of rule of law and equal access to justice goes beyond police reports, convictions and the use of dispute resolution mechanisms. The rule of law consists of laws and institutions that are applied equally to all members of the polity and a guarantee of the enjoyment of basic rights (Law and Martin 2014). Furthermore, the rule of law concerns not only the existence of dispute resolution mechanisms but also the quality of those mechanisms. This requires that justice systems meet certain rights, obligations and standards, including judicial review, the right to an effective remedy, the right to a fair and public hearing, due process and fair trial rights and the right to be presumed innocent, among others (Concha, Lara Otaola and Orozco 2021).

In order to complement this measurement, the GSoD Indices offer two democracy subattributes: Access to Justice and Judicial Independence (International IDEA 2021a). Access to justice denotes the extent to which the legal system is fair, meaning that citizens are not subject to arbitrary arrest or detention and have access to competent, independent and impartial tribunals without undue delay. This subattribute draws upon five indicators (Aarhus University 2021 and Varieties of Democracy 2021): access to justice for men, access to justice for women, judicial corruption, judicial accountability and fair trials. Judicial independence denotes the extent to which courts are not subject to undue executive influence, a key pillar of the rule of law. Six indicators are combined to form this index: high court independence, lower court independence, compliance with high court rulings, compliance with the judiciary, law and order (strength and impartiality of the legal system and popular observance of the law) and judicial independence (independence from other sources).

Figure 1.1 illustrates the GSoD Indices' Access to Justice subattribute for a selection of countries between 1975 and 2020, showing countries with the highest and lowest scores globally, in 2020, as well as countries that have undergone important historical developments, such as the end of apartheid or the fall of the Berlin Wall, which can have a big impact on the quality of democracy, as illustrated by gains in countries such as South Africa and Poland over this period.

Access to Justice in selected countries, 1975–2020

Source: International IDEA, The Global State of Democracy Indices v. 5.1, 2021, <https://www.idea.int/gsod-indices/>. accessed 6 October 2021.

TARGET 16·5

SUBSTANTIALLY REDUCE CORRUPTION AND BRIBERY

Target 16.5: Substantially reduce corruption and bribery in all their forms

Target 16.5 is measured through two indicators: 16.5.1, 'proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials'; and 16.5.2, 'proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials'. These indicators focus on the experience of bribery at the individual level or in business. However, corruption is not limited to the payment of bribes by individuals or businesses to public officials. According to Transparency International, corruption is defined as 'the abuse of entrusted power for private gain' (Transparency International 2021). As such, corruption can happen anywhere (in government, the courts, media, business, etc.) and can involve anyone (politicians, public servants, business people and members of the public) (Transparency International 2021). Therefore, it can take many forms, from direct payments (such as bribery, money laundering and graft) to using a public position for undue political influence or to provide public jobs to family members. In addition, corruption has taken on many new forms today, including using sophisticated technology and relying on international networks, making it increasingly difficult to track and monitor.

International IDEA's GSoD Indices include a subattribute—Absence of Corruption—that can be useful for capturing corruption related to the abuse of public office. Specifically, this subattribute denotes the extent to which the executive branch (and public administration more broadly) does not abuse office for personal gain. This is especially important, as corruption not only involves the bribing of public officials but can also take place through patronage, nepotism and favours for favours. International IDEA's Absence of Corruption subattribute is relevant for monitoring Target 16.5 as it is built on five different indicators (PRS Group 2021; V-Dem Institute 2021): public sector corrupt exchanges (how routinely public sector employees grant favours in exchange for bribes or other material benefits), public sector theft (how often public sector employees steal, embezzle or misappropriate public funds), executive embezzlement and theft (focused on embezzlement by members of the executive), executive bribery

(focused on favours in exchange for material benefits by members of the executive) and corrupt exchanges and corruption (actual or potential corruption within the political system between politics and businesses).

Figure 1.2 shows the GSoD Indices' Absence of Corruption subattribute for a selection of countries between 2010 and 2020. The graph includes the three countries that improved the most over the past five years and the three countries that declined the most over the same period. The trend lines highlight the significant decline in tackling corruption in countries with democratic breakdowns, such as Nicaragua, and democracies that are facing significant challenges, such as El Salvador.

> ❝ Figure 1.2 shows the significant decline in tackling corruption in countries with democratic breakdowns, such as Nicaragua, and democracies that are facing significant challenges, like El Salvador

Absence of Corruption in selected countries, 2010–2020

Source: International IDEA, The Global State of Democracy Indices v. 5.1, 2021, <https://www.idea.int/gsod-indices/> accessed 6 October 2021.

TARGET 16·6

DEVELOP EFFECTIVE, ACCOUNTABLE AND TRANSPARENT INSTITUTIONS

Target 16.6: Develop effective, accountable and transparent institutions at all levels

Target 16.6 is measured through two indicators: 16.6.1, 'primary government expenditures as a proportion of original approved budget'; and 16.6.2, 'proportion of the population satisfied with their last experience of public services'. These indicators attempt to capture the reliability of government budgets (whether budget expenditures match the amounts originally approved, as specified in government budget documentation and fiscal reports) (United Nations 2021c: Indicator 16.6.1) and people's satisfaction with their most recent experience of public services (United Nations 2021c: Indicator 16.6.2) (which usually relates to interactions with services such as healthcare or obtaining identification documents).

However, having effective, accountable and transparent institutions is related to integrity in the public sector and to having institutions that listen to the public, respond to their demands and concerns, and deliver quality public goods. The UN 'Toolkit on Transparency, Accountability and Ethics in Public Institutions' (United Nations 2021b) outlines frameworks, laws, institutions, processes and behaviours that can help achieve this, from social accountability mechanisms to transparent public procurement to ethical leadership.

While International IDEA's GSoD Indices do not capture all the dimensions required for a complete measure of Target 16.6, its Predictable Enforcement subattribute sheds light on the professionalization and impartiality of the state's administration, which is essential for transparent, effective and accountable governance. This subattribute is built from six different indicators (PRS Group 2021; V-Dem Institute 2021): the executive's respect for constitutional provisions, the existence of transparent laws with predictable enforcement, rigorous and impartial public administration, meritocratic criteria for appointment decisions in the state administration, meritocratic criteria for appointment in the armed forces and bureaucratic quality (bureaucratic strength and expertise).

Figure 1.3 focuses on the GSoD Indices' Predictable Enforcement subattribute for a selection of countries between 2010 and 2020, showing advances and setbacks in key countries that have experienced political change. As in Figure 1.2, the graph includes the three countries that improved the most over the past five years and the three countries that declined the most over the same period. The countries with significant gains in this graph all show a similar trend, with rapid progress in 2017 and 2018. Of these countries, it is worth mentioning that The Gambia is an example of what can be achieved when the opportunity for democracy arises. In the last few years, it has made progress not only in Predictable Enforcement but also in 22 different aspects as measured by International IDEA's GSoD Indices, from Civil Liberties to Clean Elections.

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Predictable Enforcement in selected countries, 2010–2020

Source: International IDEA, The Global State of Democracy Indices v. 5.1, 2021, <https://www.idea.int/gsod-indices/>. accessed 6 October 2021.

Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels

Target 16.7 is measured through two indicators: 16.7.1, 'proportions of positions in national and local institutions, including (a) the legislatures; (b) the public service; and (c) the judiciary, compared to national distributions, by sex, age, persons with disabilities and population groups'; and 16.7.2, 'proportion of population who believe decision-making is inclusive and responsive, by sex, age, disability and population group'. These targets are intended to capture the extent to which key institutions (the legislature, the judiciary and the public service) reflect the social diversity of a country and the degree to which people believe that decision-making is representative in terms of social groups. However, while it is important that all groups in a society have an effective voice in public affairs and public institutions, representation and participation—and, in fact, pluralism—go beyond demographic criteria. First, societies are divided not only across social and collective groups but by a 'pluralism of cleavages' (Miller 2003), with differences in individual ideologies and preferences. Second, and most importantly, the ability to have a voice and to influence decision-making depends not only on the public's belief in their capacity to impact policies but on having institutions that facilitate having an actual impact on politics. A more detailed discussion of the validity of these two indicators for SDG 16.7 can be found in the SDG16 Data Initiative's (2020) *Global Report*.

Several of the GSoD Indices' subattributes can help improve the measurement of this target to ensure responsive, inclusive, participatory and representative decision-making. A first set of subattributes focuses on Social Rights and Equality and can help us understand the extent to which basic welfare and political and social equality have been achieved (Tufis 2020). This subattribute is composed of three subcomponents (Social Group Equality, Basic Welfare and Gender Equality), which are in turn built on 24 different indicators. Social group equality, for instance, includes indicators that facilitate a deeper understanding of inequality and exclusion in a society. Some of these indicators are social class and social group equality, power distribution by socio-economic position and social group, women's political rights, power distribution by gender and lower-chamber female legislators.

A second set of subattributes focuses on the existence and quality of institutions (elections, legislatures and referendums, among others) that allow and amplify citizen participation. In addition to the indicators related to the quality of public administration discussed under Target 16.6, International IDEA offers other subattributes that can help capture Target 16.7. These include Clean Elections (which denotes the extent to which elections are free and fair, including measures for the autonomy and capacity of electoral management bodies), Effective Parliament (which captures the extent to which the legislature can oversee the executive) and Direct Democracy (whether mechanisms of direct democracy are in place), to name a few.

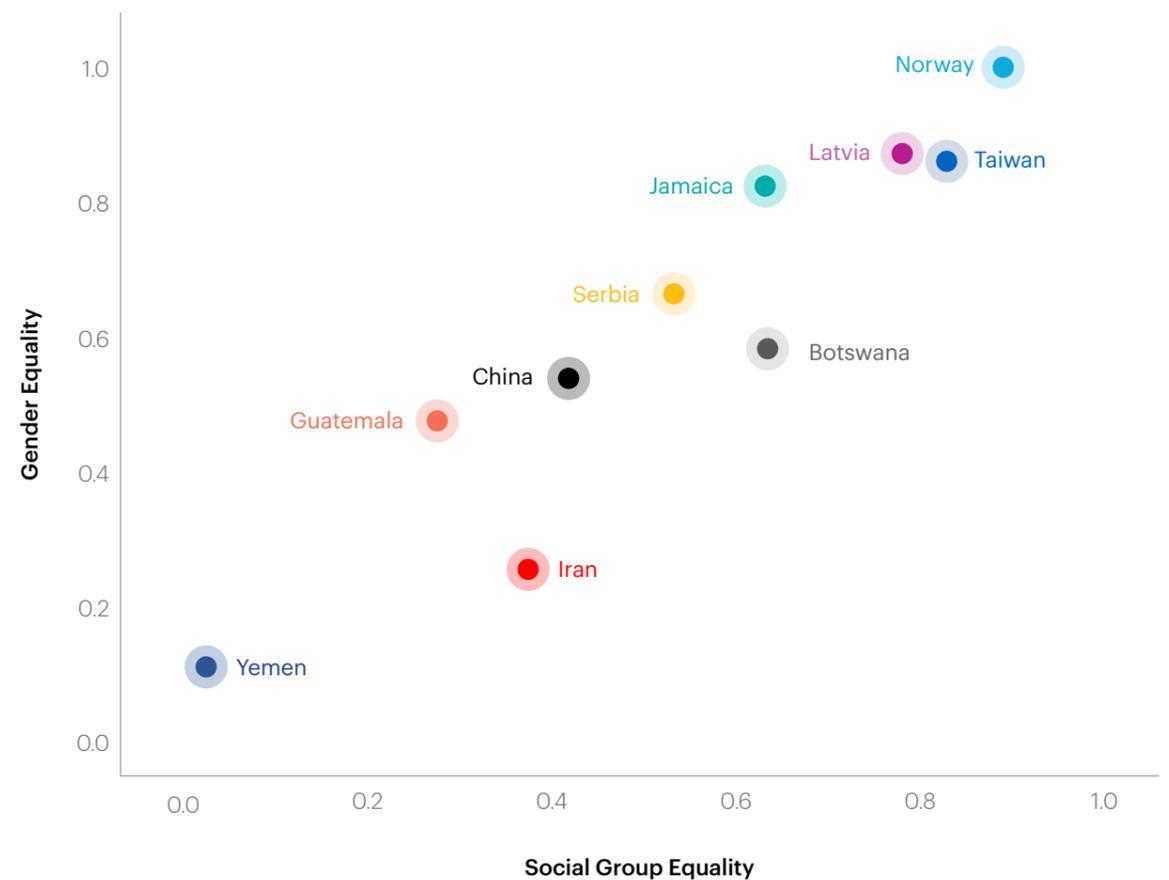Figure 1.4 compares two subcomponents which are part of the Social Rights and Equality subattribute for a selection of countries between 2010 and 2020, showing a strong relationship between Gender Equality and Social Group Equality. Countries were chosen to illustrate the range of values across these two indicators. In the last five years, Gender Equality has improved in Ethiopia, The Gambia, Georgia and Taiwan, while it declined in Brazil and Slovenia. During this same period, Social Group Equality improved in Armenia, Botswana, Ethiopia, The Gambia, Liberia, the Republic of Korea and Sudan. It declined in far more countries, most notably in Bolivia, Brazil, the Czech Republic, Iceland, Mauritius, Slovenia and Turkey.

In addition to the conceptual gaps in the design of the current official indicators, the data provided for their measurement is also limited. As of 4 November 2021, three of the nine indicators assigned to these four targets were not yet available in the database created by the UN Department of Economic and Social Affairs (United Nations 2021a). Specifically, data is missing for Indicators 16.3.3 (people who have experienced a dispute and accessed dispute resolution mechanisms), 16.6.2 (population satisfied with their most recent experience of public service) and 16.7.2 (people who believe decision-making is inclusive and responsive). Providing data for these missing indicators requires conducting opinion surveys and collecting judicial statistics that are not available for most countries, and therefore would entail significant costs.

Gender Equality and Social Group Equality in selected countries, 2020

Source: International IDEA, The Global State of Democracy Indices v. 5.1, 2021, <https://www.idea.int/gsod-indices/> accessed 6 October 2021..

GSoD Indices: supporting SDG 16 targets and indicators

Due to both problems with the availability of data and the substantive reasons identified under each of the four selected targets, it can be valuable to complement the official SDG 16 indicators with high-quality data from other sources. In this regard, an independent measure such as the Global State of Democracy Indices would be advantageous. First, International IDEA's definition, expressed through its five attributes, allows us to focus on key components of democracy, from representative government to impartial administration. This evaluation of multiple dimensions—rather than a single score per country—is relevant for use as a complementary measure of SDG 16 progress. Second, these Indices cover developments through 16 subattributes (from access to justice, to corruption to women's representation, all of which are relevant for monitoring progress for Targets 16.3, 16.5, 16.6 and 16.7). Third, a total of 116 indicators provide data for very specific variables, ranging from election body capacity to exclusion by social group, which can enhance the understanding and measurement of targets. Finally, the Indices offer high-quality data derived from a wide range of reputable sources of information, which are also updated regularly.
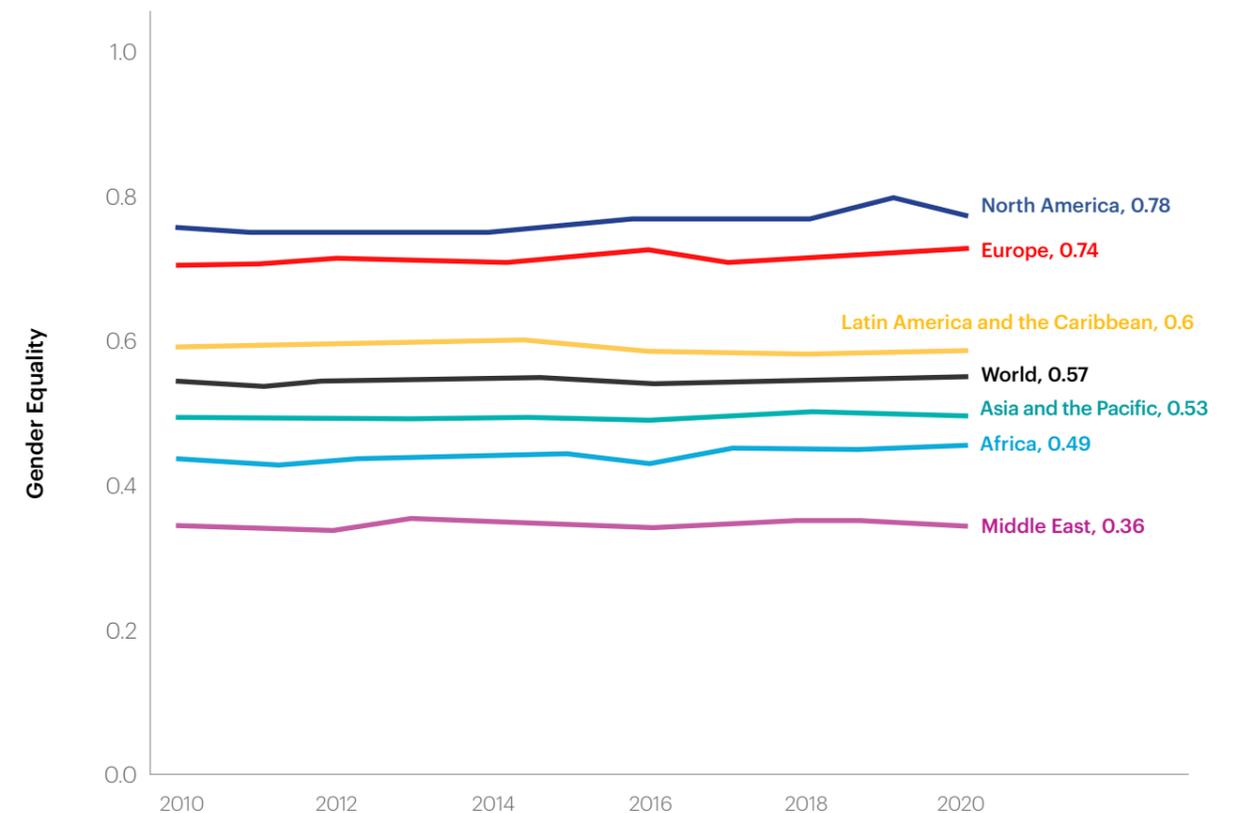
This is especially relevant during the Covid-19 pandemic. With limited flights, lockdowns and health and safety measures to protect the population, it is difficult to obtain relevant and updated data. In this regard, International IDEA's GSoD Indices methodology makes it easier to obtain and gather data remotely. Using standards-based coding by research groups and analysts, observational data and composite measures provide a key advantage. As a result, International IDEA continued its efforts to collect data for the GSoD Indices and was able to deliver its 2020 update on time. Therefore, with data available for 45 years and 165 countries (a total of 7,123 country-years), the GSoD Indices are a unique source of non-official data for supporting SDG 16 monitoring.

These data show that progress towards achieving SDG 16 has been uneven, but data on the effects of the pandemic on SDG 16 will only be fully reliable when the pandemic has ended. The figures above illustrate the trajectories of various states that exemplify both positive and negative trends. As they show, some countries have made significant progress, though as countries with improvements often start from a very low level, their overall performance in many cases remains poor. At a regional level, there has been very little movement on any of these indicators. In gender equality, for example, Europe and North America remain high-performing regions, while the Middle East has made no progress over the past decade.

The nine indicators used to measure Targets 16.3, 16.5, 16.6 and 16.7 need to be complemented by other sources of data to get a comprehensive measure of the different goals and their underlying concepts. While International IDEA's Indices can be one of these complementary sources, further research is needed for the development of more measurements of these key topics. Most notably, there is room for improvement in finding measures that can quickly capture the effects of major events, such as the Covid-19 pandemic.

Regional comparison in Gender Equality

Source: International IDEA, The Global State of Democracy Indices v. 5.1, 2021, <https://www.idea.int/gsod-indices/>. accessed 6 October 2021..

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Government censorship and violent conflict

Haakon Gjerløw, Peace Research Institute

Disinformation in statistics

In this chapter, we focus on violent conflict. In 2021, the Nobel Peace Prize was awarded to Maria Ressa and Dmitry Andreyevich Muratov for their efforts to safeguard freedom of expression. More generally, the prize honoured all journalists who stand up for this ideal in a world in which democracy and freedom of the press face increasingly adverse conditions. The work by independent media in documenting abuse, violence and other acts of repression is of immense importance to research on conflict—events that governments typically do not want reported. We start this chapter by highlighting some of the research on government-produced disinformation and censorship, and honouring the important work done by journalists worldwide. We then comment a few trends in disinformation and censorship during the COVID-19 pandemic. After this, we illustrate and comment on trends in violent conflict over the past few years. Finally, we discuss some potential innovations in data collection that could support the independent and objective monitoring of SDG 16.

International statistics rely to a great extent on government sources. Gross domestic product, population size, enrolment numbers—many of these widely used data sets depend on numbers that are collected, processed and reported by governments themselves. In recent years, academics have become increasingly worried about whether governments can be trusted to do the job without political interference. There is mounting evidence that less democratic governments are less transparent with their data and less likely to publish data when it is unfavourable to their reputation (Hollyer, Rosendorff and Vreeland 2011). Moreover, the data such undemocratic governments do report are more likely to have been tampered with to make the numbers look good (Martinez 2021).

A lack of transparency coincides with a lack of respect for freedom of expression. Many undemocratic

governments both censor and fabricate news reports and social media content in order to manipulate the information environment, control their own reputation and distract the public from critical topics (King, Pan and Roberts 2017).

Such disregard for transparency has implications for monitoring SDG Target 16.1, 'significantly reduce all forms of violence and related death rates everywhere'. Conflict is typically among the topics that governments do not want to talk about, especially if they themselves are the perpetrators. We know, for example, that when political leaders plan on engaging in massive repression, they harass, evict or kill journalists right before to avoid reports about their abusive behaviour (Gohdes and Carey 2017).

We cannot trust that any given government will give accurate reports on SDG Target 16.1.2, which is 'Conflict-related deaths per 100,000 population, by sex, age and cause', and Target 16.1.3, 'Proportion of population subjected to (a) physical violence, (b) psychological violence and (c) sexual violence in the previous 12 months'. In many countries, the main perpetrator for such violence is the government. For this reason, the SDG16 Data Initiative has always advocated the importance of non-official data, and of civil society organizations and independent news media to monitor progress.

The SDG16 Data Initiative's data on Target 16.1.2, the Uppsala Conflict Data Program (UCDP) / Peace Research Institute Oslo (PRIO) Armed Conflict Dataset, use independent news sources as one of their main sources to track conflict events. Naturally, limitations on freedom of speech and freedom of movement for independent news media can affect the ability of the UCDP and PRIO to monitor conflict. Think, for example, of the accusations that China's oppression of the Muslim population in Xinjiang amounts to crimes against humanity. Verifying information in the area has been extremely difficult due to the repressive actions of the Chinese Government, and most of the information we have comes from leaked documents,[3] satellite imagery and escapees (Amnesty International 2021). In such situations, it is very likely that our current data fail to capture all violent actions that are taking place.

Transparency during the pandemic

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As a necessary step to combat the spread of the disease, essentially every government in the world limited personal freedoms in some form, such as restrictions on movement, gatherings and/or international travel.

The Covid-19 pandemic made it a lot easier for governments to repress information. As a necessary step to combat the spread of the disease, essentially every government in the world limited personal freedoms in some form, such as restrictions on movement, gatherings and/or international travel. Many countries, however, also used the pandemic as a guise for unnecessary limitations on freedom of expression. For example, two thirds of all governments imposed restrictions on media freedom, and the repression of civil society organizations intensified after the world went into lockdown (Alizada et al. 2021). With limitations on travel, 2020 was an extraordinarily difficult year to track progress on SDG 16.1.

A failed call for peace

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There is mounting evidence that less democratic governments are less transparent with their data and less likely to publish data when it is unfavourable to their reputation (Hollyer, Rosendorff and Vreeland 2011).

At the beginning of the pandemic, there was a small hope that countries would unite to combat the spread of the disease. On 23 March 2020, UN Secretary-General António Guterres issued an urgent appeal for a global ceasefire in all corners of the world, calling on countries to focus instead on defeating Covid-19 together. Along with many other commentators, the Secretary-General hoped that this common virological enemy could create the impetus for a resurgence in international cooperation. In the weeks following Guterres's call, warring parties in Colombia, the Philippines, Sudan, Thailand and Yemen declared ceasefires. In September, the (officially) first-ever talks between the Afghan Government and the Taliban commenced in Qatar.

Peace was short-lived: none of the above-mentioned ceasefires lasted for any significant period of time. In Afghanistan, for example, battle-related deaths dwindled in the first half of 2020, but the conflict had ramped up again by the end of the year. Elsewhere, old, dormant conflicts started to flare up. Armenia and Azerbaijan fought over Nagorno-Karabakh, killing over 7,000 people. Along the China–India border, several fatal skirmishes have taken place throughout 2020–2021, bringing relations between the two countries to a level of tension they had not seen in almost 60 years. In Ethiopia fighting is still ongoing in the Tigray province between the Ethiopian Government and the Tigray People's Liberation Front. As is typical when governments engage in violence, Prime Minister Abiy Ahmed (a Nobel Peace Prize laureate) quelled coverage of the conflict by repressing independent media, which made it difficult to get reliable information on the conflict's cost in human lives. The UCDP/PRIO Armed Conflict Dataset recorded 3,868 conflict-related deaths in Ethiopia in 2020. Moreover, the UN reported 20,000 refugees missing after their shelters were destroyed during the conflict.

Conflict trends

More generally, conflict trends worldwide seem wholly unrelated to the pandemic. Many of the recent developments follow trends that have been ongoing for several years. In the early 2010s, for example, the conflict in Syria was responsible for the majority of conflict-related deaths in state-based conflicts throughout the world. As the intensity of the conflict has gradually diminished, so has the total number of conflict-related deaths worldwide. This decade-long trend ended in 2020: fatalities in Syria continued to decline, but there was an increase worldwide. That said, the shifts that have taken place in 2020 and 2021 followed conflict dynamics that started prior to the pandemic, such as NATO's exit from Afghanistan.
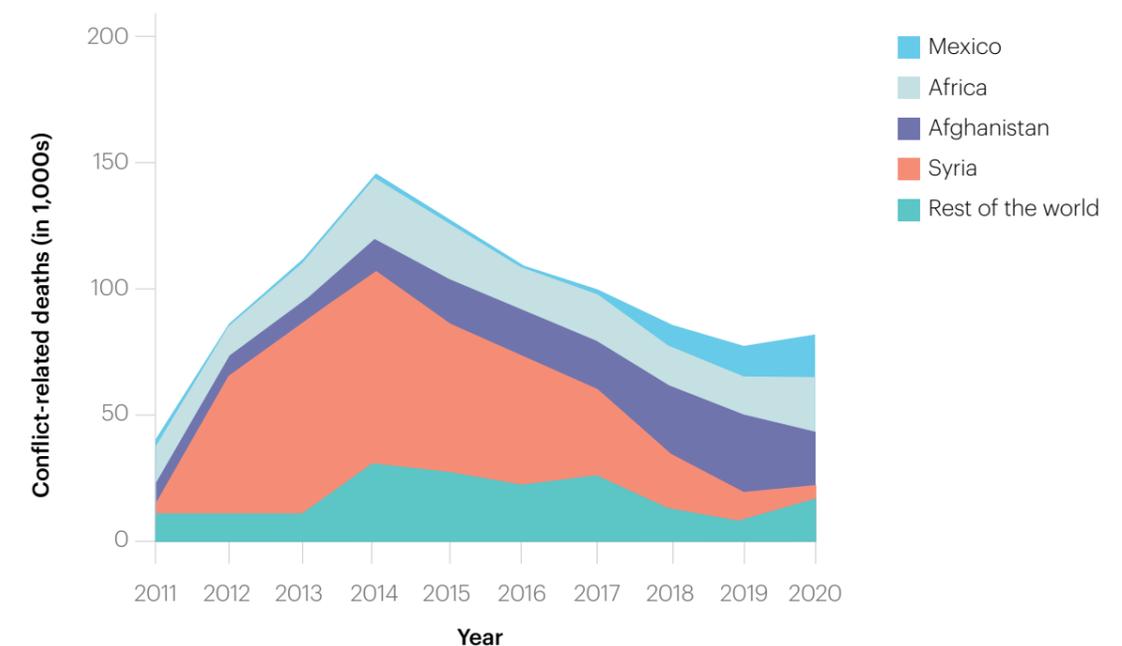
There are two important developments that the international community should take notice of. First, there has been a regional shift from the Middle East to Africa, with the latter now driving the trend in organized violence. The continent has experienced a sharp increase in active conflicts since 2012, with another nine new or restarted conflicts in 2020. The number of conflicts declined in all regions of the world in 2020 except in Africa, and the continent is now home to more than half of all armed conflicts where governments are involved. While conflict in other regions tends to be highly clustered in certain states, such as Syria and Afghanistan in the Middle East, the current conflicts in Africa span an east–west belt across the continent.

Much of the recent increase in Africa was due to the Islamic State in Iraq and Syria (ISIS) moving into new areas, such as the Democratic Republic of Congo, Mozambique and Tanzania. IS is one of the main perpetrators of killings of civilians in Africa as well as worldwide (Pettersson et al. 2021). Therefore, the current increase in violence in Africa is directly linked to the end of conflict in the Middle East, as IS is trying to establish new headquarters for their operations.

FIGURE 2.1

Conflict-related deaths in Mexico, Africa, Afghanistan, Syria and the rest of the world, 2011–2020

Sources: Data from UCDP Georeferenced Event Dataset, version 21.1; T. Pettersson et al., 'Organized violence 1989–2020, with a special emphasis on Syria', *Journal of Peace Research*, 58/4 (2021), pp. 809–25; R. Sundberg and E. Melander, 'Introducing the UCDP Georeferenced Event Dataset', *Journal of Peace Research*, 50/4 (2013), pp. 523–32.

FIGURE 2.2

Total number of conflict-related deaths, 1989–2020

Sources: Data from UCDP Georeferenced Event Dataset, version 21.1; T. Pettersson et al., 'Organized violence 1989–2020, with a special emphasis on Syria', *Journal of Peace Research*, 58/4 (2021), pp. 809–25; R. Sundberg and E. Melander, 'Introducing the UCDP Georeferenced Event Dataset', *Journal of Peace Research*, 50/4 (2013), pp. 523–32.

FIGURE 2.3

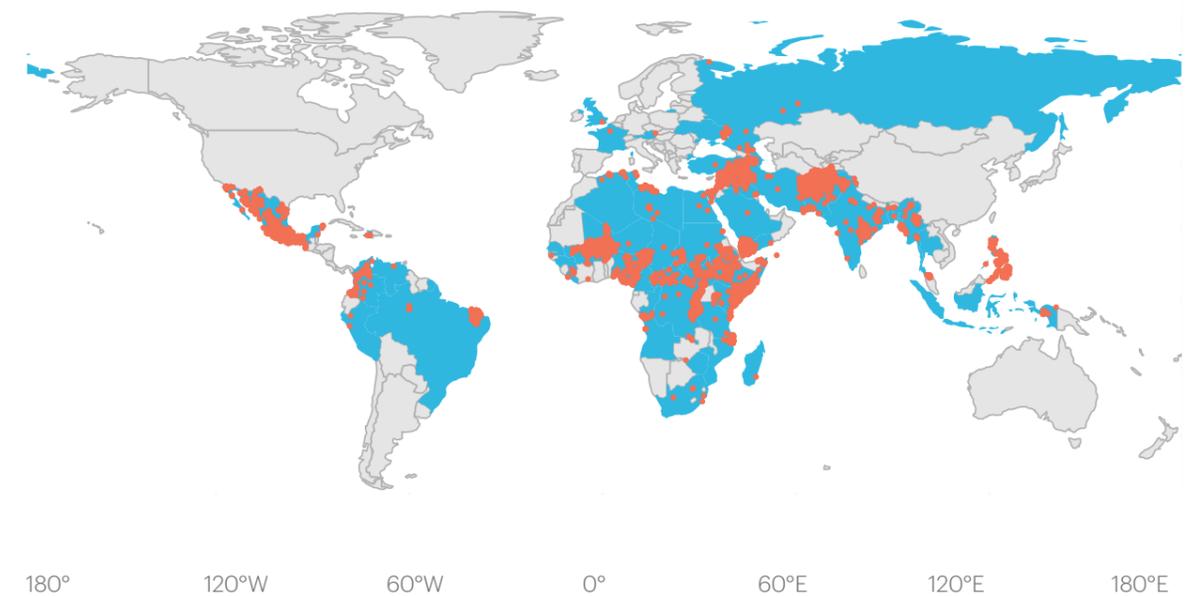**Location of conflict events in 2020[4]**

Sources: Data from UCDP Georeferenced Event Dataset, version 21.1; T. Pettersson et al., 'Organized violence 1989–2020, with a special emphasis on Syria', *Journal of Peace Research*, 58/4 (2021), pp. 809–25; R. Sundberg and E. Melander, 'Introducing the UCDP Georeferenced Event Dataset', *Journal of Peace Research*, 50/4 (2013), pp. 523–32.

A second notable development has occurred in Mexico since 2016. The Jalisco New Generation Cartel has ongoing conflicts with several other cartels throughout Mexico. In the past five years, conflict with the Jalisco Cartel has claimed over 35,000 human lives. The year 2020 was the second year in which Mexico experienced the second-most battle-related deaths worldwide, surpassed only by war-torn Afghanistan. The Mexican drug war is more deadly than most modern interstate and civil wars.

This highlights the link between SDG 16.1 and SDG 16.4, which concerns illicit arms flows. We know from research that the Mexican drug war is heavily affected by access to weapons (Dube, Dube and García-Ponce 2013). However, research on gun violence has been lacking, partly because of the contentious nature of this issue in the United States (Subbaraman 2019). The lack of funding has made it difficult to produce and maintain a data set that systematically collects information on illicit arms flows. We therefore do not have any system in place to effectively monitor progress on SDG 16.4. This is just another example of how political considerations inhibit transparency and undercut our ability to achieve the goals formulated in SDG 16.

High number of displaced people

With violence comes displacement. To monitor our complementary SDG Target 16.1.5, 'total number of people displaced internally due to conflict and violence', we rely on the Internal Displacement Monitoring Centre's Global Internal Displacement Database. For the past five years, they have reported a yearly average of 10 million new internally displaced persons (IDPs) from conflict and violence. These individuals often lack access to basic public services, such as proper healthcare and education. This, in turn, creates new problems in subsequent years. While a tremendous amount of work has gone into improving the conditions for IDPs, the only long-term solution to displacement is to stop what is causing it. It is not clear how the pandemic has affected displacement. On the one hand, we would expect that increased repressions during the pandemic would cause greater displacement. On the other hand, harsh restrictions on freedom of movement both within and between countries is likely to have made it more difficult for people to move.

Improving data collection

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To increase both the precision of the data and its resilience to various obstacles, several academic institutions have explored the option of monitoring through so-called crowd coding.

Ultimately, mapping conflict and its devastation on humanity requires eyes on the ground, and it is crucial that we continue to support independent news media and civil society in monitoring and producing data on these sensitive topics.

We must also always look for opportunities to develop our infrastructure for monitoring violence. As governments try to limit independent journalism and freedom of expression, we need alternative ways to discover acts of violence. The pandemic has further exposed this weakness in the infrastructure, as both well-intended and ill-intended governments have obstructed the flow of information.

To increase both the precision of the data and its resilience to various obstacles, several academic institutions have explored the option of monitoring through so-called crowd coding.[5] Typically, crowd-coding systems use online software that anyone can access and use to report an incident, such as an act of violence.

Crowd coding can also be used to anticipate conflict. Many violent incidents follow stable patterns. For example, some countries usually experience conflict right before or right after elections. Local individuals might know about plans for mobilization or have contextual knowledge of where rebel groups operate. Such knowledge is often extremely localized and therefore inaccessible to international journalists. With crowd coding, individuals can log on and report if they think there will be any conflict, giving precise coordinates for where and when it might occur.[6] Combining such crowd-coded information with existing data and forecasting models could (hopefully) improve our ability to foresee when and where violence will occur, and in turn prevent it.

The solution is no panacea—governments can (and do), for example, still interfere with Internet connectivity—but it would be an improvement on our existing tools for monitoring and ultimately achieving SDG 16.1. In all likelihood, we will depend on independent journalists to help us with this important work for the foreseeable future.

3

Disinformation

Disrupting progress towards achieving the Sustainable Development Goals

Toby Mendel, Centre for Law and Democracy, Steering Committee Member, Global Forum for Media Development

Introduction

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Moves by social media platforms to restrict information during the pandemic have been justified by reference to the overriding need to protect public health and avoid confusion among users about basic health information

On 29 September 2021, YouTube announced that it was taking steps to remove all false information about approved vaccines from its platform, thereby very substantially expanding a previous ban that only covered false information about COVID-19 vaccines. This followed similar moves by Facebook in February 2021 and Twitter in March 2021. These are very significant moves by social media platforms to restrict information which it is perfectly legal to share in most countries and which is largely included within the scope of protected speech under international law. These measures were justified by reference to the overriding need to protect public health and avoid confusion among users about basic health information. In the case of YouTube, the company noted that it had seen a steady increase in the volume of false information about vaccinations since the onset of Covid-19.

These moves, and the controversies they raise— Facebook has reportedly had problems instituting its ban—capture well the broader challenges created by the growing circulation of inaccurate information via digital communications platforms. A key consideration is that this information undermines progress on core development issues, such as health but including almost every other indicia of progress. But, for the most part, this information is also protected speech; indeed, it is often very difficult to determine what is true and what is false, and there are often even debates among credible scientists about scientific findings. This challenge is increased exponentially by the truly enormous volume of information circulating online, both publicly and among selected individuals, which only automated systems, with all of their flaws, could possibly monitor and address. Another factor is motivation, with the majority of those spreading inaccurate information not even being aware that it is false.

The phenomenon of disseminating inaccurate information, including intentionally, is hardly new. The UN Special Rapporteur on freedom of opinion and expression opens her 2021 report on disinformation and freedom of opinion and expression by recalling Octavian's disinformation campaign against his rival Mark Antony more than 2,000 years ago (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression 2021: para. 1). But digital communications have fundamentally changed the dynamics around the circulation of inaccurate information, such that John Stuart Mill's famous argument in favour of free

speech, namely that it would lead to the truth, is no longer quite as persuasive as it once was (Mill 1859: Chapter II). And the Covid-19 pandemic has certainly accelerated this trend.

In today's world, the relentless and increasingly pervasive onslaught of inaccurate information is creating very serious problems. Topically, almost every country in the world is experiencing Covid-19 vaccine hesitancy in one form or another. While this varies considerably from country to country, vaccine hesitancy always presents serious challenges for curbing Covid-19 and potentially other pandemics. show that inaccurate information spread via social media is a strong driver of vaccine hesitancy (Wilson and Wiysonge 2020).

Beyond the direct impact on development, inaccurate information also undermines our ability to assess progress in different areas of development, whether this is due to challenges in conducting accurate surveys, distortion of basic underlying data or other considerations. As such, inaccurate information represents a very serious challenge for the achievement of the Sustainable Development Goals (SDGs).

This chapter starts by discussing the main ways to classify the types of inaccurate information, and the terminology used to describe them. It then provides an overview of the key drivers for the increasing spread of such information. The third section of the chapter delves in more detail into the main ways in which the circulation of inaccurate information creates headwinds for development progress, specifically as categorized by the SDGs, with a particular focus on the impact on SDG 16 (promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels). This is followed by a brief review of the complex human rights framework surrounding inaccurate information, mainly through the lens of the right to freedom of expression. The final section looks at responses to inaccurate information, focusing on responses which involve the provision of information, from among the many types of possible responses.

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Studies show that inaccurate information spread via social media is a strong driver of vaccine hesitancy (Wilson and Wiysonge 2020).

Definitions

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Many of the worst and most negatively impactful instances of disinformation are rooted in aspirations of political gain, not economic gain.

Up to this point, this chapter has avoided using the words 'disinformation' and 'misinformation'—the two terms commonly used internationally to describe inaccurate information. Although these terms have entered popular discourse, there remains some debate about their precise definitions. For example, while most people associate disinformation with some sort of malign intention, or at least knowledge of inaccuracy (see below), a Broadband Commission research report on freedom of expression and addressing disinformation on the Internet, *Balancing Act: Responding to Disinformation While Defending Freedom of Expression*, divorces the term from the intent of the speaker or disseminator, indicating that it 'uses the term "disinformation" to describe false or misleading content with potentially harmful consequences, irrespective of the underlying intentions or behaviours in producing and circulating such messages' (Broadband Commission for Sustainable Development 2020: 8).

For the Broadband Commission report, disinformation includes two elements: information which is false or misleading and which has potentially harmful consequences, while the intention of the actors involved is explicitly ruled out. The report explains this apparent departure from the accepted nomenclature, which it recognizes exists, by claiming that the impact of 'false content, irrespective of intentions, can be the same'. The report's aim in focusing on the 'potentially damaging effects of fabricated and misleading content, rather than the motivation for its creation and dissemination' explains its 'broad use of the term disinformation here as [an] umbrella term' (Broadband Commission for Sustainable Development 2020: 18).

It is true that all inaccurate content could potentially be harmful (although not all of it actually is harmful), but removing any reference to intent obscures the fundamentally different nature of the intentional and unintentional spread of inaccurate information. Mistakes are inevitable in human discourse and even in the work of professional journalists. For this reason, professional codes for the media do not impose an obligation of accuracy on journalists; rather, the obligation they impose is only to strive for accuracy.[7] It seems wholly inappropriate to equate an error by a professional journalist with the intentional lies of someone seeking political or economic gain, even though the former may sometimes cause harm.

In contrast to the Broadband Commission, the European Union's Code of Practice on Disinformation includes a clear intent element in its definition. Specifically, their definition includes three elements. The first is that the content in question must represent verifiably false or misleading information. Second, the content must have been created or shared with the intention of obtaining economic gain or deceiving the public. Third, the dissemination of the content must pose a risk of causing public harm ('may cause public harm'), which the EU defines as threats to democratic decision-making or public goods such as protection of 'health, the environment or security' (European Union 2018: Preamble).

While an improvement on the Broadband Commission report—including by introducing the concept of the verifiability of the falsity or misleading nature of the information—this definition also has problems. First, it is not clear why the intention of receiving 'economic gain' has been singled out for particular mention alongside the general category of deceiving the public. Many of the worst and most negatively impactful instances of disinformation are rooted in aspirations of political gain, not economic gain. Second, and more important, the 'may cause public harm' condition, especially as elaborated upon in the Code, is both confusing and inconsistent. Here, the focus shifts from economic gain to political disruption and, indeed, it is not clear that mere economic gain would even fall within the scope of the harms listed in the definition (since it may simply lead to individuals buying goods they do not want, rather than a wider threat to the sort of public good it refers to). In any case, there is arguably no reason to tether disinformation to specific sorts of harm, since it may be disseminated merely to cause confusion or chaos.[8] There is also the complex issue of defining what constitutes harm in any case.

For the purposes of this chapter, a simpler, more practical definition is used. 'Disinformation' refers to the dissemination of information which the actor involved knows is inaccurate or misleading. For its part, 'misinformation'—which was not defined in either the Broadband Commission report or the European Union's Code of Practice on Disinformation—refers to the dissemination of verifiably inaccurate or misleading information where the actor involved is not aware of this. Both dis- and misinformation often (but not always) cause serious harm, but the element of harm is not incorporated into the definition because

that significantly complicates the identification of these types of information and is unnecessary.[9]

Ultimately, a human hand lies behind the dissemination of any information. However, the proximate cause of the dissemination of any particular information, and even the creation of the information in the first place, which must precede its dissemination, may be executed through automated means. Examples of this include the tools that many online services use to prioritize certain content for users, based on users' profiles or AI-driven chatbots that use machine learning to interpret users' questions and respond to them.

It will immediately be clear that the anthropomorphic notion of knowledge of the inaccuracy of information that is incorporated into the definition of disinformation used in this chapter does not easily apply to automated forms of dissemination. Where a human being behind the automated dissemination of information acted in the knowledge that her or his work would lead to the dissemination of inaccurate or misleading information, that is deemed to be disinformation. Otherwise, the automated dissemination of inaccurate or misleading information is deemed to be misinformation.

Drivers of disinformation

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Content that is viewed, shared and promoted more frequently drives greater advertising revenues. To the extent that disinformation is almost inherently more sensational, there is a strong business driver for companies to prioritize it through their platforms.

The US-based National Public Radio (NPR) network interviewed its own science correspondent, Geoff Brumfiel, about YouTube's announcement of the expansion of its removal of false information to cover inaccurate statements about all approved vaccines. In the interview, Brumfiel noted the impact of the new measures: 'Well, it's caused some of the biggest promoters of vaccine misinformation to be completely kicked off YouTube, basically—in particular, a gentleman by the name of Joseph Mercola, who runs a multimillion-dollar natural supplements business' (NPR 2021b).

The show did not delve into Mercola's specific motivations for promoting falsehoods about vaccines, but the clear implication was that vaccines might be bad for the natural supplements business.[10] There is evidence of a broad link between vaccine disinformation and alternative health business interests (NPR 2021a).

The unfortunate fact is that disinformation works, more or less, whatever the ultimate objective is. It is often argued that negative political campaigning, which focuses on attacking your opponent, is more successful than positive campaigning, which focuses on highlighting the positive actions you will take. If a politician can get electors to believe inaccurate statements about the flaws in her or his opponent, that will obviously be even more powerful since accurate negative campaigning is at least constrained by reality.

Beyond opportunism, arguably another important driver of disinformation, whether directly or indirectly (e.g. by those who share it without thinking about it), is individuals who do not have a specific goal but simply do not care about the impact of their efforts to disseminate information, or who are driven by a desire to disseminate statements that somehow seem to them to be interesting or critical or that just challenge the status quo.

The profound sense of alienation that many people feel today—whether due to decades of stagnation in terms of economic or social progress, discrimination or other forms of mistreatment at the hands of others, serious democratic failures leading to their exclusion from the democratic process or many other causes—can very seriously promote these sorts of non-opportunistic drivers of dis- and misinformation. Closely linked to this, as research has repeatedly shown, so-called 'fake news' has '**a considerable cognitive advantage over factual information**' (Fondation Hirondelle 2021: 5), so that it is a major challenge for accurate information to '**capture the public's attention**, competing with the "candy" of simplistic, rewarding, amusing or shocking content that floods our news feeds and web pages' (Fondation Hirondelle 2021: 5).[11]

This phenomenon also helps explain two significant drivers of disinformation which are largely unrelated to the proximate drivers of its original dissemination. The first is the business model of many online service providers, which is driven by advertising revenues which, in turn, are driven by audience engagement. Essentially, content that is viewed, shared and otherwise promoted more frequently drives greater advertising revenues. To the extent that disinformation is almost inherently more sensational and interesting, there is a strong business driver for companies to prioritize it through their platforms, however that may take place.[12]

The flip side of this is that users are more likely to view, share and/or otherwise promote (more exciting) disinformation. Often, they do this unwittingly or at least without specific knowledge of the inaccuracy or misleading nature of the information they are promoting, whether or not they care about this. As such, these actions represent a form of misinformation. However, they also represent a form of disinformation laundering (along the lines of money laundering), given that intermediary disseminators obscure the origins of the disinformation and make it appear to come from credible sources, i.e. friends and colleagues. Furthermore, the spreading of disinformation via misinformation represents a powerful multiplier, given the far greater number of people online who promote disinformation via misinformation than who engage directly in disinformation.

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There is evidence of a broad link between vaccine disinformation and alternative health business interests (NPR 2021a).

Impact on development and the achievement of the SDGs

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The COVID-19 pandemic has highlighted numerous ways in which disinformation has both undermined efforts to combat the pandemic and created spin-off health problems. The problem is so serious that it has given rise to the term 'disinfodemic'

Leading statements on disinformation always refer to the profoundly negative impacts of disinformation, and of its accelerator and cleanser, misinformation. For example, the Broadband Commission report *Balancing Act: Responding to Disinformation While Defending Freedom of Expression* states,

Disinformation (as opposed to verifiable information) can cause harm since it may serve to confuse or manipulate citizens, create distrust in international norms, institutions or democratically agreed strategies, disrupt elections, or paint a false picture about key challenges such as climate change. It can also be deadly, as the COVID-19 'disinfodemic' has illustrated.

(Broadband Commission for Sustainable Development 2020: 19)

In her 2021 report on disinformation and freedom of opinion and expression, the UN Special Rapporteur on freedom of opinion and expression notes that the over 100 submissions she received when drafting the report contained 'many concrete examples' of the 'real, broad and legitimate' harms disinformation causes (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression 2021: para. 22). Among other impacts, disinformation is often abused by politicians to gain political advantage, and by extremist groups to promote intolerance of difference and to undermine equality and other human rights. Climate change is another area where disinformation has had a significant impact.[13]

The Covid-19 pandemic has highlighted numerous ways in which disinformation has both undermined efforts to combat the pandemic and created spin-off health problems. Indeed, the problem is so serious that it has given rise to the term 'disinfodemic'.[14] To give just one unfortunate example, at the time of writing, news reports are circulating about a spike in calls to a poison hotline in the Canadian province of Alberta due to people taking ivermectin, which has wrongly been promoted as a treatment for Covid-19 (CBC News 2021). The massive problem of vaccine hesitancy, significantly driven by dis- and misinformation, which is undercutting the effectiveness of the core solution to the pandemic that many countries are promoting, has already been noted.

While disinformation undermines all SDGs, the impact on SDG 16 is perhaps particularly profound. The ideas of trust in public institutions, their accountability to society and the fact that a strong democratic basis is needed for their work are both explicit in many SDG 16 targets and somehow implicit in all of them. Disinformation poses a particular threat to these social values.

Disinformation of a political nature, particularly when included in micro-targeted advertisements which exploit the specific vulnerabilities of their very tailored audiences, threatens the very core of any democratic system, namely free and fair elections. In her report on disinformation, the UN Special Rapporteur on freedom of opinion and expression gives a number of specific examples of how disinformation has been used to undermine free and fair elections, including by referring to then US President Donald Trump's attempts to portray postal voting as unreliable and open to fraud (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression 2021: para. 24).

Other examples the Special Rapporteur gives also highlight threats to peaceful and inclusive societies, access to justice and effective, accountable and inclusive institutions, which lie at the heart of SDG 16. These include the use of disinformation to foment hatred and religious tensions, in some cases leading to widespread physical violence; the weaponization of disinformation against women to deny them equality in various ways; and the use of disinformation to attack and undermine human rights defenders and civil society organizations. She concludes this section by stating: 'The negative impact of disinformation is undeniable and must be addressed. International human rights law provides a powerful antidote and a framework for formulating responses' (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression 2021: paras 24—29).

One of the more profound and challenging impacts of dis- and misinformation is that it can lead to a lack of trust in public institutions, as highlighted in the quote above from the Broadband Commission report. This poses perhaps one of the most serious threats to the achievement of SDG 16, as well as other SDGs, since such trust is key to the successful functioning of societies at many levels. This has been a growing problem for some time, but the Covid-19 pandemic

seems to have made it much worse. It was inevitable that Covid-19 would put a lot of strain on relations between citizens and their governments, given the wholly unprecedented constraints the latter were imposing on the former. This was likely exacerbated by the fact that decisions needed to be made on the basis of fairly flimsy scientific evidence, particularly at the beginning of the pandemic, when harsh measures were first introduced in many countries. And the fact that many governments, even while doing their best, sought to protect themselves from criticism by claiming they were just relying on science, which was true, but then they often failed to communicate honestly about how limited the scientific basis for their decisions was. Trying to rebuild trust, or at least to stop its further erosion, will be a huge challenge for governments around the world going forward.

Human rights analysis

> " It is unclear what specific restrictions on freedom of expression might be warranted to combat dis- and misinformation in the context of elections or protecting public health.

One of the challenges for states when it comes to dealing with disinformation is that, even if it can cause harm, it is still a form of expression which is protected by the right to freedom of expression, as guaranteed, for example, in article 19(2) of the International Covenant on Civil and Political Rights (ICCPR). Furthermore, harm is normally caused through the collective force of numerous repetitions of dis- and misinformation rather than the actions of individuals, which again has important implications in terms of freedom of expression. The Broadband Commission report *Balancing Act: Responding to Disinformation While Defending Freedom of Expression* highlights the risks of even well-meaning regulation of disinformation:

[T]here is the phenomenon of catching journalists in nets set for disinformation agents through the criminalisation of the publication or distribution of false information (e.g. via "fake news" laws). This works directly against the role of independent, critical journalism as a counter to disinformation'

(Broadband Commission for Sustainable Development 2020: 11).

International law is clear that general prohibitions on the dissemination of inaccurate statements are not legitimate. As the special international mandates on freedom of expression indicated in their 2017 'Joint Declaration on Freedom of Expression and "Fake News", Disinformation and Propaganda': 'General prohibitions on the dissemination of information based on vague and ambiguous ideas, including "false news" or "non-objective information", are incompatible with international standards for restrictions on freedom of expression, as set out in paragraph 1(a), and should be abolished' (Special international mandates on freedom of expression 2017: para. 2[a]).[15]

This does not rule out more specific prohibitions on inaccurate statements when linked to specific sorts of harm. Thus, all states prohibit false and defamatory statements (i.e. false statements which harm reputations) and perjury (false statements under oath before a court). In their 2020 'Joint Declaration on Freedom of Expression and Elections in the Digital Age', the special international mandates on freedom of expression actually called on states to prohibit certain inaccurate statements during elections, as follows: 'States should adopt appropriately clear and

proportionate laws that prohibit the dissemination of statements which are specifically designed to obstruct individuals' right to vote, such as by intentionally spreading incorrect information about where or when to vote' (Special international mandates on freedom of expression 2020: para. 1[c][ii]).

It is unclear what specific restrictions on freedom of expression might be warranted to combat dis- and misinformation in the context of elections or protecting public health. This is still an emerging area of debate, with various actors, such as the Council of Europe, working on developing standards.

It is important to note that the right to freedom of expression protects not only the rights of the speaker but also the rights of the listener, with article

19(2) of the ICCPR stating, in part: 'Everyone shall have the right to freedom of expression; this right shall include freedom to seek, *receive and impart* information and ideas of all kinds' (emphasis added). An argument could therefore be made that while disinformation is protected for the disseminator as part of her or his right to impart information and ideas it also interferes with the recipient's right to seek and receive information and ideas, which could include some sort of protection against receiving inaccurate and misleading information, particularly where the intensity of it was such as to confuse or disorient the recipient as to the truth. This idea has yet to be developed either in the literature or certainly by authoritative international actors, including international human rights courts.

Responses

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There may also be a need to put in place systems to prevent officials from making statements which fall foul of these rules, at least in their official capacities, such as codes of conduct or disciplinary rules which prohibit this.

There are a lot of possible responses, and by a number of different actors, to the problem of disinformation. These include a range of responses by states, such as regulation—whether of content or of platforms—enhancing the provision of media and information literacy and countering disinformation directly. There are also a number of measures that platforms can and indeed are taking. It is beyond the scope of this chapter to try to address this complex area.[16]

However, it is important for states to take specific measures in the area of information, which are mentioned here since they also contribute directly to the achievement of the SDGs. The 2017 'Joint Declaration on Freedom of Expression and "Fake News", Disinformation and Propaganda' of the special international mandates on freedom of expression referred to two key ideas here, as follows:

- State actors should not make, sponsor, encourage or further disseminate statements which they know or reasonably should know to be false (disinformation) or which demonstrate a reckless disregard for verifiable information (propaganda).

- State actors should, in accordance with their domestic and international legal obligations and their public duties, take care to ensure that they disseminate reliable and trustworthy information, including about matters of public interest, such as the economy, public health, security and the environment (Special international mandates on freedom of expression 2017: para. 2).

The first measure here highlights the importance of states and official actors not contributing to disinformation or, even recklessly, to misinformation. Some governments actively contribute to disinformation, which is clearly illegitimate, including because it breaches the right to freedom of expression. While the 2017 Joint Declaration does not go further, it is clear that states would need to take positive steps beyond not actually promoting disinformation to implement this measure. For example, official statements by public authorities should, at a minimum, be based on a reasonable effort to ensure accuracy. But there may also be a need to put in place systems to prevent officials from making statements which fall foul of these rules, at least in their official capacities, such as codes of conduct or disciplinary rules which prohibit this.

The second measure aligns with wider statements about the right to information and the duty of public authorities to publish, on a proactive basis, information of key public importance. This is essential not only to counter disinformation but also to achieve development outcomes, to hold government to account, to foster effective public participation and to enable citizens to achieve their own personal goals.

The Joint Declaration also highlights the importance of states adopting strong laws giving individuals a right to access information held by public authorities, or right to information laws, and promoting media diversity and a strong flow of professional content to the public via the media as important parts of the solution (Special international mandates on freedom of expression 2020: 14—15).

Conclusion

It is clear that disinformation, with the support of its cousin misinformation, is both increasingly prevalent in today's world and causing serious harm, including to countries' ability to achieve the Sustainable Development Goals. Unfortunately, a number of structural considerations are driving these results, which it will not be easy to counter. These include human nature, a widespread feeling among many people of alienation and the business models of most online service providers and especially social media platforms. The fact that most disinformation is protected by international guarantees of the right to freedom of expression, in part due to the risk that even well-meaning restrictions can seriously undermine public-interest expression, complicates the question of appropriate responses to this often very problematical form of expression.

More muscular efforts by states to prevent official dissemination of disinformation, as well as to produce reliable, trustworthy information as a counter to disinformation, need to be part of the solution. Rebuilding the trust of citizens, which has been badly undermined during the Covid-19 pandemic, is also an important need. States should also make a concerted effort to support the dissemination of reliable information by other actors, including the media.

It seems clear that addressing some of the broader drivers for dis- and misinformation—especially discrimination, inequality, including in terms of enjoying the benefits of development and human rights, and other sources of alienation—needs to be part of a longer-term package to address these problems. In other words, states need to redouble their efforts to make progress on achieving the Sustainable Development Goals before an increase in disinformation blocks that avenue forward for them.

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Assessing progress on delivering public access to information and protecting fundamental freedoms

Importance, challenges and Covid-19

Toby Mendel, Centre for Law and Democracy, Steering Committee Member, Global Forum for Media Development

About the Global Forum for Media Development

The Global Forum for Media Development (GFMD) is an international network of around 100 journalism support and media development organizations working in around 50 countries. Established in 2005 in Amman, Jordan, and based in Brussels, the GFMD's core value is to support the creation and strengthening of journalism and free, independent, sustainable, and pluralistic news ecosystems, as defined by the declarations of UNESCO at conferences in Windhoek, Almaty, Santiago de Chile, Sana'a and Sofia. Its main focus is to ensure proper collaboration as well as an exchange of information and experience among its members with a view to creating a strong, independent, and pluralistic media environment, which contributes to the development of empowered societies.

The GFMD has played a fundamental role in global advocacy initiatives, including successfully integrating access to information into the SDGs. By supporting independent journalism and broad public access to information, the GFMD is committed to enhancing reporting on access to information laws. In 2019, the GFMD, in collaboration with Deutsche Welle Akademie (2021) and Free Press Unlimited (2021), and in consultation with the Centre for Law and Democracy (CLD 2021b) and the Africa Freedom of Information Centre (2021), published *Road to 2030: Access to Information in the Driver's Seat* (GFMD, DWA and FPU 2019), a report on the state of access to information in 10 Voluntary National Review countries.[17]

Introduction

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SDG Target 16.10 calls on states to 'Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements'.

SDG Target 16.10 calls on states to 'Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements'. As such, it covers both a general human rights notion—protection of fundamental freedoms—and a more specific human right falling within the scope of that notion—ensuring public access to information. There are two indicators under Target 16.10, as follows:

- **16.10.1**: 'Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months'; and

- **16.10.2:** 'Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information'.

This chapter looks at the various methodologies developed by UNESCO and civil society experts to assess national progress on SDG Indicators 16.10.1 and 16.10.2, highlighting their strengths and weaknesses and showcasing their findings.

The most reliable data for Indicator 16.10.1 is about killings, as opposed to the other actions included therein (i.e. kidnappings, enforced disappearances, arbitrary detentions and torture). Here, Covid-19 does not seem to have brought about an increase in this extreme form of attack on freedom of expression, in part because of the complex way the pandemic has affected human behaviour. However, other assessments of the impact of Covid-19 on freedom of expression are more negative. Several leading civil society organizations, for example, have tracked these impacts in different ways and all have concluded that the impact has been negative and profound.[18]

The impact of Covid-19 on Indicator 16.10.2 is more direct, with tracking showing that many countries partially or even completely closed down access to information systems, whether legally or just informally. For example, a new page on the Centre for Law and Democracy's (CLD) RTI Rating website, COVID-19 Tracker, recorded numerous countries making formal legal changes which undermined access to information (CLD 2020).

Importance of SDG Target 16.10 and its indicators

It is widely recognized that the values covered by Target 16.10—freedoms in general and access to information in particular—are important not only in their own right but also for the sustainable achievement of other human rights, as well as wider development objectives. The UN General Assembly, for example, emphasized the importance of freedom of information in Resolution 59(I), adopted at its first session in 1946: 'Freedom of information is a fundamental human right and . . . the touchstone of all the freedoms to which the United Nations is consecrated' (United Nations General Assembly 1946).

Linking this more specifically to the SDGs, the chapter on SDG 16.10 in the SDG16 Data Initiative's 2020 *Global Report* stated: 'Public access to information and the free exchange of ideas are prerequisites for building "peaceful, accountable and inclusive societies"—the overarching aim of SDG 16. Freedom of information is equally essential for tracking and achieving progress in all 17 of the global goals' (SDG16 Data Initiative 2020: 40). As such, while assessing progress on all SDG targets is important, it is even more essential in relation to this target.

To assess progress, we need to understand clearly what is covered by an SDG target. Target 16.10 does not define what is included within the scope of 'fundamental freedoms'. However, experts have assessed that a large proportion of all of the SDGs and targets reflect human rights,[19] so presumably 'fundamental freedoms', for the purposes of Target 16.10, refers to something narrower. It is beyond the scope of this chapter to delve deeply into this issue, but the indicators that fall under this target seem to suggest a focus on civil and political rights, such as freedom of expression and freedom of association, while many other SDGs focus on economic, social and cultural rights.

Target 16.10 goes on to call for the protection of these rights and freedoms 'in accordance with national legislation and international agreements'. The first part of this is an odd formulation since every country, subject to respect for the rule of law, obviously protects rights in accordance with its own national legislation. If that were all states were required to do, Target 16.10 would set a very low bar indeed. However, protecting rights in accordance with 'international agreements' is quite another matter. This surely refers, perhaps among other things, to states meeting the standards set out in international human rights treaties. While there are no doubt ways in which the international human rights legal framework could be improved, overall it sets quite strong standards for states to live up to.

The first indicator under Target 16.10 focuses on various forms of very serious abuse—specifically killing, kidnapping, enforced disappearance, arbitrary detention and torture—perpetrated on certain categories of people—media workers, trade unionists and human rights advocates. All of these forms of abuse are crimes but the idea here is that where they are directed at these categories of people they represent something more, namely an attack on human rights. For example, where these abuses are specifically directed at media workers, the goal is often to stop them from reporting on a matter of public interest, such as corruption or organized crime.

As such, they represent an attack on everyone's right to receive information about these public interest issues, which is part of the right to freedom of expression, and, ultimately, an attack on accountability and democracy itself. To this extent, they represent surrogate measurements of respect for human rights.

The second indicator here is more obvious in its relationship to human rights, given that the right to access information held by public authorities, to which it refers, is a protected human right under international law and many national constitutions, often referred to as the right to information or RTI (and sometimes as the right of access to information or freedom of information). On the other hand, assessing compliance with this indicator is quite complex. While the mere adoption of a constitutional guarantee of this right or a law governing it will normally be directly measurable, the question of whether such a law conforms to the standards of international law is far more complex. Assessing whether states are implementing their RTI laws properly is also very complex.

> " Target 16.10 goes on to call for the protection of these rights and freedoms 'in accordance with national legislation and international agreements'.

Measuring progress on SDG Indicator 16.10.1

> The CPJ investigates each reported killing carefully to determine whether the person involved was indeed a journalist, whether the killing was attributable to his or her work as a journalist and, further, whether it was specifically motivated by his or her work (as opposed, for example, to being caught in crossfire while covering an armed conflict) (CPJ 2021b).

Indicator 16.10.1 covers a number of actions but killings of media workers, trade unionists and human rights advocates, at least, are officially tracked and reported on, respectively, by UNESCO, the International Labour Organization and the Office of the UN High Commissioner for Human Rights, while some states also maintain statistics on such killings. UNESCO reports on journalists who have been killed through its Observatory of Killed Journalists, a searchable database of journalists who have been killed since 1993 (UNESCO 2021a).

A leading civil society reporting effort in this area is the one undertaken by the GFMD member the Committee to Protect Journalists (CPJ), an international human rights NGO based in the United States (CPJ 2021a). The CPJ investigates each reported killing carefully to determine whether the person involved was indeed a journalist, whether the killing was attributable to her or his work as a journalist and, further, whether it was specifically motivated by her or his work (as opposed, for example, to being caught in crossfire while covering an armed conflict) (CPJ 2021b). There are fairly significant differences between the figures in the CPJ and UNESCO databases. For example, UNESCO reports 1,472 journalists killed since 1993 while CPJ reports 1,366 motive confirmed killings and 1,924 killings overall, significantly more than UNESCO. The differences are even more stark for 2021, with UNESCO reporting 37 killings and CPJ only 60 per cent of that figure, or 22, of which 13 are motive confirmed.[20] Both the UNESCO and CPJ data are continuously updated so that they are always up-to-date (subject to verification).

The differences between the UNESCO and CPJ data highlight the importance of having diverse sources of information for this indicator, including non-official sources. For example, the CPJ distinction between motive confirmed and all killings adds depth to the data, as do the differences in the methodologies employed. As in many areas of life, the mere fact of competition creates a virtuous circle in terms of quality and rigour of methodology and investigation. It also allows researchers and other interested parties to compare and contrast, ultimately relying on data which is more tailored to their work needs.

Measuring progress on SDG indicator 16.10.2

> The leading non-official data on the adoption of RTI guarantees is produced by the GFMD member the Centre for Law and Democracy (CLD 2021).

Indicator 16.10.2 refers to two qualities of the legal framework for the right to information, namely whether binding instruments have been adopted and whether those instruments are being implemented. Concerning the first, the indicator has broadly been interpreted to cover constitutional guarantees and legal guarantees—although formally it refers to 'constitutional, statutory and/or policy guarantees'—which may be primary legislation (i.e. a law) or secondary legislation (such as a decree or presidential order).

As the UN custodian agency for this indicator, UNESCO has gathered data for three years (2019—

2021) via surveys completed on a voluntary basis by states as part of a self-assessment exercise. UNESCO's approach to gathering data through surveys has evolved significantly in each of the past three years. Importantly, UNESCO has seen a steady increase in the number of countries which have responded to the surveys, from 43 in 2019 to 69 in 2020 to 102 in 2021. At the same time, a trade-off here is that the surveys have become considerably simpler, and hence also correspondingly less data-rich, in each iteration. Therefore, by 2021, the survey had evolved into a single eight-question document (UNESCO 2021b)[21] to be completed ideally by the oversight body for RTI (such as an information commission) or another central body with responsibility in this area.[22]

In 2021 UNESCO awarded up to a maximum of nine points to each country based on the responses to each survey question.[23] The goal is not to assign performance ratings or rankings to countries (such as low, medium or high) but, rather, to track aggregate or overall trends, including the different areas assessed via the survey. UNESCO then prepares a report on overall trends and conclusions, based on the data,[24] which it feeds into various formal and informal reporting processes.

The first part of Indicator 16.10.2, the adoption of formal guarantees for RTI, is the subject of the first five questions on the 2021 UNESCO survey which focus, respectively, on whether such guarantees are in place and, if so, of what sort; whether they refer to an oversight body and, if so, what measures are in place to promote its independence; whether they require public authorities (the individual agencies within government which are directly responsible for RTI) to appoint officials with dedicated responsibilities for responding to requests; what roles they assign to the oversight body; and whether they stipulate exceptions to the right of access (and, if so, which ones).

The leading non-official data on the adoption of RTI guarantees is produced by the GFMD member the Centre for Law and Democracy (CLD 2021), in collaboration with Access Info Europe (Access Info Europe 2021). These two organizations pioneered the RTI Rating (CLD and Access Info Europe 2021a) in 2011 and it is now globally recognized as the leading methodology for indicating not only whether or not a country has an RTI law or constitutional guarantee but also the strength of the legal framework for RTI. Specifically, it uses 61 different indicators to assess

whether the legal framework contains specific rules which support RTI, such as short time limits for responding to requests and broad scope of coverage in terms of the obligation to respond to requests. Taken together, the 61 RTI Rating indicators cover all of the issues included in the first five questions of the UNESCO survey, along with many others. As such, the RTI Rating allows for very precise pinpointing of both the strengths and the weaknesses of the legal framework for RTI in each country.

The total maximum score a country could earn on the RTI Rating is 150 points and four countries—Afghanistan, Mexico, Serbia and Sri Lanka—earned scores of more than 130 points, or 87 per cent, demonstrating that very high scores are possible. Seven countries earned less than 50 points, or 33 per cent, demonstrating that very low scores are also possible. Countries are ranked from first to last on the RTI Rating website country page. The RTI Rating is updated continuously and the main country page (CLD and Access Info Europe 2021b) currently assesses all of the countries which have RTI laws.

The second part of Indicator 16.10.2, the implementation of RTI guarantees, is covered by the last three questions on the 2021 UNESCO survey. The first question asks for a yes/no response to whether the oversight body conducted each of five activities during the previous year (so 2020 in this case): publishing an annual report, providing training to officials, raising public awareness, keeping statistics on requests and appeals, and asking public authorities to keep statistics on their RTI activities. The second question asks whether the oversight body received reports from public authorities on their RTI activities, how many requests for information were made and whether disaggregated data is kept on the grounds for refusing requests. The final question asks whether the oversight body keeps statistics on appeals, how many appeals were received and how they were disposed of (i.e. granted, denied and so on) and (again) whether disaggregated data is kept on the grounds for refusals of requests.

There are two main non-official methodologies for assessing implementation of RTI guarantees. The first was developed by the Freedom of Information Advocates Network (FOIAnet 2021a), the main global network bringing together RTI advocacy organizations (some 250) and individuals focusing on this right (nearly 1,000). FOIAnet is the original custodian of 28

September as International Right to Know Day, dating from 2002, which was later recognized as International Day for Universal Access to Information by UNESCO, in 2016, and then the UN as a whole, in 2019.

As the key civil society network on RTI, FOIAnet immediately turned its attention to developing a methodology for assessing implementation of RTI laws following the adoption of the SDGs and, specifically, Indicator 16.10.2. It developed a test methodology in 2017 and a number of its members applied the methodology in pilots that year (FOIAnet 2021b and 2017). Following that, the methodology was revised in 2018 and now includes both the methodology[25] and a scoring sheet for recording results.[26] FOIAnet's methodology looks into performance by a diverse range of public authorities, selected by the organization that is applying the methodology, and generalizes systemic conclusions about implementation from that sample.

The methodology provides a significantly deeper dive into implementation than the three questions on this subject in the UNESCO survey, highlighting the importance of non-official data for assessing progress on this indicator. Specifically, it covers three main areas. First, it assesses whether the public authorities being reviewed publish 12 types of information (such as organizational and financial information as well as information about RTI itself) proactively, using a direct assessment approach (i.e. looking online to see whether the information is available). Second, it looks at whether various institutional measures have been put in place, such as whether an official with dedicated responsibilities for RTI has been appointed and trained, and whether the authority has adopted an overall implementation plan. Different means are used to assess this, including online searches and, if necessary, direct contact with the authority. Third, it makes blind requests for information to each authority and assesses the quality of responses both procedurally (whether the response was provided in a timely fashion, and whether a receipt was provided) and substantively (whether the information was provided, and whether any refusal was legitimate).

This methodology allocates scores in each area, to each authority (in each area and overall) and then to the country as a whole based on established formulas. These are then translated into colour grades (green, yellow and red) to give a general sense of performance in the assessed area. As such, it allows

for tracking performance in different areas, by different authorities and by countries over time.

In 2019, the first year that SDG 16 was subject to review at the UN High-Level Political Forum on Sustainable Development, the GFMD worked with Deutsche Welle Akademie and Free Press Unlimited, with the support of the Centre for Law and Democracy and the Africa Freedom of Information Centre, to apply the FOIAnet methodology in 10 countries: namely Canada, Indonesia, Mongolia, Pakistan, Serbia, Sierra Leone, South Africa, Tanzania, Tunisia and Ukraine. A detailed report on the results, *Road to 2030: Access to Information in the Driver's Seat* (GFMD, DWA and FPU 2019) was produced which made a number of recommendations for reform. Interestingly, 2 of the 10 countries achieved a green grade, 6 a yellow and 2 a red, indicating average performance overall.

The Covid-19 pandemic exerted quite a chilling effect on the use of this methodology and it was applied in only a few countries in 2020. Applications for 2021 remain ongoing as at the time of writing.

The other non-official methodology for assessing implementation, the *Right to Information Implementation Assessment: Comprehensive Methodology* (Comprehensive Methodology), was developed by CLD in Pakistan with the support of the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) (CLD 2021b). It was launched in November 2019 at the Paris Peace Forum, after having been piloted in Pakistan and then revised based on the pilot. Like the FOIAnet methodology, it focuses on a selection of public authorities as a sort of representative sample of what is happening overall in the country.

The name of the second methodology hints at its nature, which is considerably more detailed and all encompassing than either the UNESCO survey or the FOIAnet methodology. It relies on seven different assessment tools: a literature review, a direct assessment of proactively published information, a direct assessment of decisions by oversight bodies, key informant interviews (with up to eight different sets of actors), self-assessments (by public authorities and oversight bodies), office visits and blind test requests for information.

It covers four assessment areas: central measures (mostly looking at oversight bodies, their independence, mandate and activities in practice), and then three areas focusing on selected public authorities, namely institutional measures (looking at structural steps taken), proactive disclosure and reactive disclosure or how authorities respond to requests. Unlike the two other methodologies, which assess a selection of substantive issues in each area, the Comprehensive Methodology aims to cover all of the relevant issues in each area. Therefore, the list of substantive issues for central measures runs to three pages, with several items being open-ended. For example, under the heading 'public awareness raising', three specific types of activities are listed, followed by an open-ended question: 'Has it undertaken other activities?' It is this approach which justifies the inclusion of the word 'comprehensive' in the title.

Like the FOIAnet methodology, this methodology allocates scores according to a set formula and then translates them into a colour grade of red, yellow or green. However, given that the scope of the review is open, in the sense of covering all relevant issues, a subset of issues is used for scoring purposes.

Given that this methodology was launched only shortly before Covid-19 shutdowns began and that it involves a wide range of assessment tools, some of which would be more heavily impacted by those shutdowns, rollout has been slower than planned. So far, only two assessments have been finalized, with one more close to completion, and a few others in progress at this time. Taking into account the significant effort that is required to apply this methodology, the recommended frequency of application is only once every few years, rather than annually, as is the case with the other methodologies. However, even the few applications that have been completed show the value of this methodology, which provides a very detailed overview of exactly what needs to be done to improve RTI implementation in a country.

Impact of the Covid-19 pandemic

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The pandemic created significant headwinds in assessing the implementation of RTI laws.

The onset of the Covid-19 pandemic upended normal life in most countries so it is reasonable to assume that it would also have a major impact on progress towards achieving the SDGs, including Target 16.10. At the same time, the impact of Covid on Indicator 16.10.1 is hard to assess. The CPJ reported 49 deaths in 2020, the lowest number since the early 2000s, while UNESCO reported 62 deaths, around the average number it has reported annually since 2000. Beyond this, a very detailed analysis would be required to assess properly the impact of Covid-19 in this area, looking at issues such as the relative number of conflict-related and other killings, changes in the nature of media reporting and so on.

In stark contrast to this, the impact of Covid-19 on both the adoption and implementation of RTI laws is clear and harsh. Predictably, the rate of new adoptions dropped to almost nothing, with just one new law passed in 2020 (in Kuwait). That is understandable given that legislatures themselves were suspended or at least significantly constrained in many countries. Of greater concern was the many countries which adopted amendments to their RTI laws, either suspending them entirely or suspending or significantly extending the time limits for responding to requests. The Covid-19 Tracker on the RTI Rating website recorded 23 countries which formally instituted legal or policy limitations on access to information due to Covid-19 (CLD 2020). Beyond this, many countries informally suspended RTI rules, technically in breach of the law, which thus represented a wider attack on the rule of law.

While some delays were inevitable, the CLD argued from the beginning that maintaining the right to information should be seen as part of the emergency response, rather than something to be suspended, given the heightened need for vertical accountability mechanisms at a time when governments were taking decisions of unprecedented importance with a minimum of oversight. This perspective is reflected, among other places, in the main publication UNESCO launched on International Day for Universal Access to Information 2020, *The Right to Information in Times of Crisis: Access to Information— Saving Lives, Building Trust, Bringing Hope!* (UNESCO 2020b), which the CLD authored.

As noted above, the pandemic also created significant headwinds in assessing implementation of RTI laws. Since its survey is almost entirely virtual in nature, UNESCO was actually able to expand the number of responses to it in 2020 but the FOIAnet and CLD methodologies, which employ a range of assessment tools, were more negatively impacted. Among other things, it is not possible to conduct a request testing exercise when application of the law is suspended.

Conclusion

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The Covid-19 pandemic negatively impacted almost every area of life

The right to access information held by public authorities or the right to information is a human right and among the development goals set by the SDGs. It is important not only directly but also for the role it plays in supporting the realization of all human rights and other sustainable development objectives. The same is true of freedom of expression, also a human right and part of the SDGs. The SDGs identify two indicators to assess progress in these areas. As this chapter has demonstrated, non-official data supplements official data for both of these indicators in very important ways, including by improving the reliability of the data, increasing the diversity of sources, rendering more profound the assessment of achievements and improving the methodological soundness of data collection in the first place.

The Covid-19 pandemic negatively impacted almost every area of life, including in terms both of progress towards achieving Target 16.10 and its indicators and of challenges in assessing that progress, especially in the area of the right to information. Hopefully, the world will progress reasonably quickly towards whatever the new normal holds for us and that new normal will allow us both to resume progress in terms of Target 16.10 and to be able to assess that progress robustly.

5

Rule of law and access to justice

SDG 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all

Sarah Long, World Justice Project

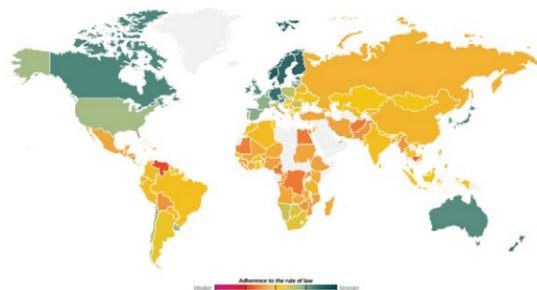# The state of the rule of law and access to justice

The *World Justice Project (WJP) Rule of Law Index® 2021* shows that, for the fourth consecutive year, more countries declined in their overall performance on the rule of law than improved (WJP 2021a: 2). Nearly three quarters (74.2 per cent) of countries covered in the *WJP Rule of Law Index* performed worse in the 2021 edition than they did in the year prior. These declines impact a large portion of the global population: approximately 6.5 billion people live in countries where the rule of law declined in the past year. Relative to the *WJP Rule of Law Index 2020*, declines in constraints on government powers, civic space, timeliness of justice and absence of corruption were observed in more than half of the countries surveyed. The vast majority—94 per cent—of countries

covered by the Index reported increases delays in administrative, civil or criminal proceedings, with delays in civil justice specifically noted in two thirds of countries (WJP 2021a: 2—3).

These findings reinforce troubling trends that were first observed prior to the Covid-19 pandemic. In addition to sustained declines in a majority of countries' *WJP Rule of Law Index* scores, it was estimated that 5.1 billion people—or two thirds of the world's population—already lacked meaningful access to justice pre-pandemic because they could not resolve their civil or criminal justice problems, because they were excluded from the opportunities the law provides, or because they lived in extreme conditions of injustice such as being stateless or living in modern slavery (WJP 2019: 5).
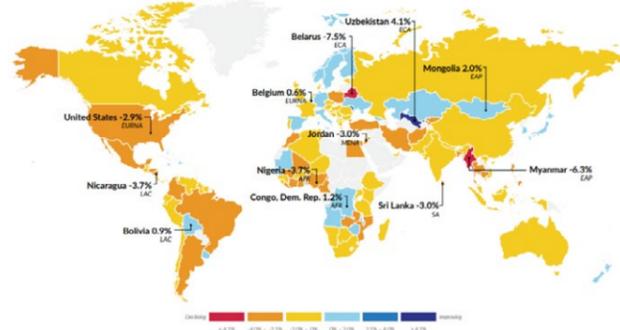
Official data for SDG 16.3—in particular Indicator 16.3.2—also show troubling trends. The UN Office on Drugs and Crime (UNODC) finds that, globally, one in three incarcerated individuals are detained without having been found guilty in a court of justice (UNODC 2021: 2). The global share of unsentenced detainees in the prison population has effectively remained constant for the last 20 years, indicating virtually no global progress in this area. The highest proportion of unsentenced detainees is in Southern Asia (67 per cent) followed by sub-Saharan Africa (43 per cent) and Latin America and the Caribbean (36 per cent) (UNODC 2021: 8).

FIGURE 5.1

Share of prisoners unsentenced, by region

Source: World Justice Project, *World Justice Project Rule of Law Index Insights 2021: Highlights and Data Trends from the WJP Rule of Law Index® 2021* (Washington, DC: WJP, 2021), p. 10.

FIGURE 5.2

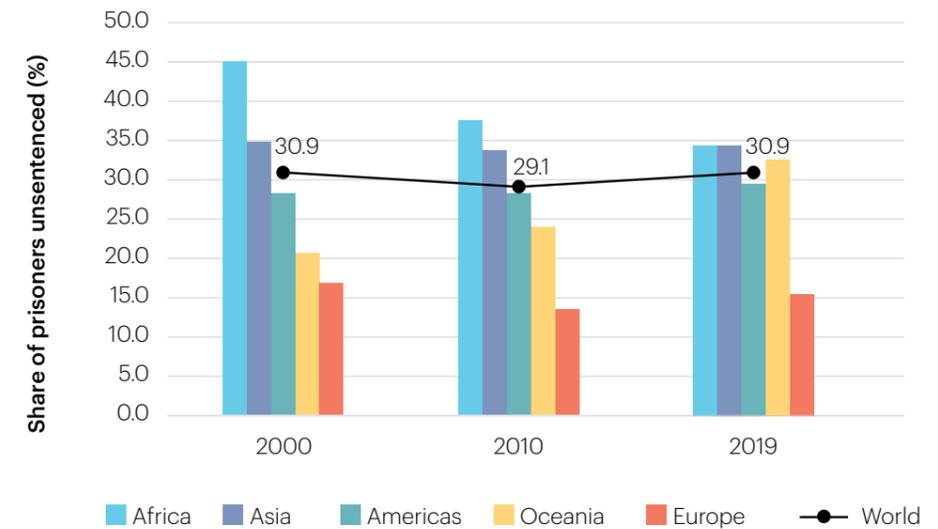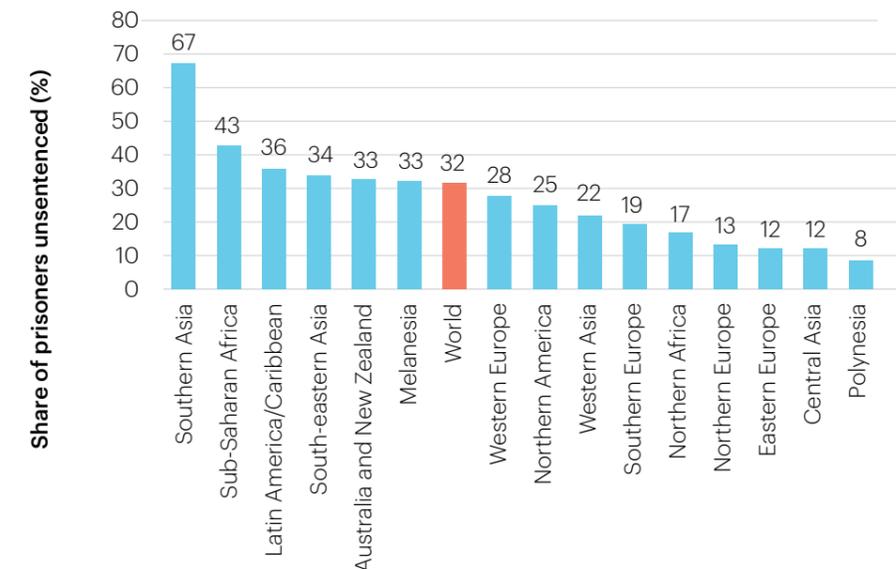### Overall rule-of-law score changes (2021)

Source: World Justice Project, *World Justice Project Rule of Law Index Insights 2021: Highlights and Data Trends from the WJP Rule of Law Index® 2021* (Washington, DC: WJP, 2021), p. 18.

FIGURE 5.3

Share of prisoners unsentenced, by region

Source: United Nations Office on Drugs and Crime (UNODC), Data Matters No. 1 (Vienna: UNODC, 2021), p. 7.

FIGURE 5.4

Share of prisoners unsentenced, by subregion

Source: United Nations Office on Drugs and Crime (UNODC), Data Matters No. 1 (Vienna: UNODC, 2021), p. 8.

Marginalized populations are more vulnerable to being denied access to justice. SDG 16.3 is inextricably linked with issues of socio-economic inequality: individuals from certain demographic groups—such as youth, Indigenous persons, those living with a disability or experiencing domestic violence or socio-economic disadvantage—tend to experience justice problems at a higher rate than the population overall (OECD 2021: 28—29). This higher likelihood of experiencing justice problems is then compounded by lessened legal capability and access to legal assistance (OECD and WJP 2019: 40). Women and girls around the world are disadvantaged by intimate partner violence, employment discrimination, unequal property laws and gaps in legal identity, among other issues (Klugman 2020: 10–11). Survey research from the Hague Institute for Innovation of Law also found that refugees in Ethiopia experience legal problems at a greater rate and severity than the general population (HiiL 2020: 12).

While data such as these point to important justice barriers for vulnerable populations, they provide an incomplete picture, as marginalized groups are often underrepresented in the data due to underreporting of sensitive issues and difficulties reaching hard-to-count populations (OECD and WJP 2019: 18). Addressing these justice barriers and data gaps is essential to delivering on the Sustainable Development Agenda's promise to leave no one behind.

The Covid-19 pandemic has further complicated efforts to advance the rule of law and access to justice. The Covid-19 pandemic is a multilayered crisis, consisting of not only the immediate public health crisis but also the resulting economic, employment and financial crisis as well as the political, social and cultural dislocation (Pathfinders for Peaceful, Just and Inclusive Societies 2020a: 4). Around the world, public health measures intended to limit the spread of Covid-19 have curtailed the rule of law and access to justice by increasing government powers, limiting rights and freedoms, and decreasing access to critical services (Pathfinders for Peaceful, Just and Inclusive Societies 2020a: 10). The *WJP Rule of Law Index 2021* reflects, in part, the impacts of the

Covid-19 pandemic on the rule of law and access to justice. The *WJP Rule of Law Index 2021* is composed of eight factors; for six of these, a larger proportion of countries declined in their performance in the past year than in the past six years (WJP 2021a: 21). While these declines cannot be solely attributed to the COVID-19 pandemic, they do suggest that the public health crisis has negatively impacted the rule of law and access to justice.[27]

The pandemic has caused a sharp increase in poverty and inequality that may reinforce existing governance challenges. The World Bank estimates that 97 million individuals fell into extreme poverty in 2020 as a result of the pandemic (Mahler et al. 2021). Poverty, justice and the rule of law are closely linked: poverty can be both a cause and a consequence of a lack of access to justice (OECD 2019: 15). As people living in poverty are more likely to experience justice problems, this rise in extreme poverty may be tied to an increase in justice problems. Similarly, justice experts believe that the Covid-19 pandemic will lead to an increase in justice problems, specifically problems related to employment, debt and bankruptcy (Pathfinders for Peaceful, Just and Inclusive Societies 2020b: 6). While the pandemic has fuelled an increase in poverty and justice challenges, it has simultaneously hampered the ability of many governments to respond because of limited staff capacity and constrained financial resources (Steven and Williams 2021: 1).
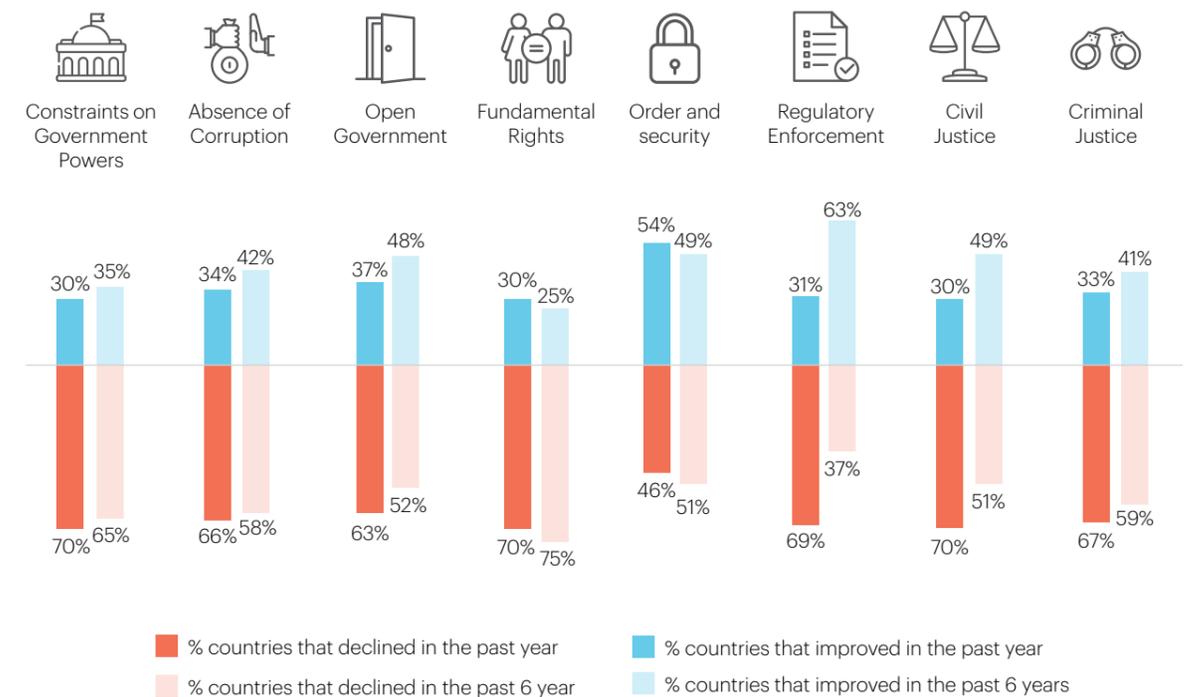
While these trends paint a bleak picture, the global community has a unique opportunity to reassess established systems and advance innovative solutions through the Covid-19 response and recovery, and ultimately to build back better. As decision-makers continue to respond to the Covid-19 crisis, justice and the rule of law should be mainstreamed throughout policy and programming responses: immediate action to address urgent needs should be complemented by sustained efforts to understand and address systemic discrimination and to re-evaluate justice systems (WJP 2020c: 15). One way to mainstream justice is by ensuring adequate financing: decision-makers can work to ensure that people-centred justice is included in stimulus packages

and emphasized in official development assistance (Pathfinders for Peaceful, Just and Inclusive Societies 2020a: 25). In addition, as social-distancing health protocols have pushed many services online, some justice services such as online dispute resolution have become more efficient and accessible to many. While there are pros and cons to the digitalization of services related to SDG 16.3, there is a clear

opportunity for innovative and creative solutions to advance this target using digital technology (WJP n.d.). This is just one example of the unique opportunities available to re-evaluate justice services and governance structures more broadly as a way of strengthening the rule of law and access to justice in the medium and long term.

FIGURE 5.5

Factors of the *WJP Rule of Law Index* over time

Source: World Justice Project, *WJP Rule of Law Index Insights 2021: Highlights and Data Trends from the WJP Rule of Law Index® 2021* (Washington, DC: WJP, 2021), p. 21.

The state of data on SDG 16.3

While data coverage for the official SDG 16.3 indicators has improved in recent years, many countries still lack adequate information on justice and the rule of law, hindering effective policy responses. According to the United Nations SDG Global Database, 50 countries reported data on SDG Indicator 16.3.1 on crime victimization reporting rates between 2004 and 2018 (United Nations 2021a). Data coverage for SDG Indicator 16.3.2 on pretrial detention has increased: at present, World Prison Brief offers data on the proportion of unsentenced detainees in the prison system for 218 countries (World Prison Brief 2021). While improved data coverage for the SDG 16.3 indicators is a positive sign, many countries still lack official data. Furthermore, some countries lack the capacity to regularly produce updated data and therefore rely on outdated information that likely falls short of capturing the present situation.

A positive and important development for SDG 16.3 was the formal adoption of a new indicator 16.3.3, on access to dispute resolution by the UN Statistical Commission in April 2020, paving the way for standardized data collection and reporting on access to civil justice as part of the SDGs. Data collection for this indicator is jointly overseen by the United Nations Development Programme (UNDP), the UNODC and the Organisation for Economic Co-operation and Development (OECD). The new Indicator 16.3.3 offers a standardized approach to monitoring access to civil justice across countries, and will draw on four questions that can be integrated into general population surveys as a module or asked as part of a stand-alone legal needs survey (United Nations Statistical Commission 2021: 3).

The UNDP, the UNODC and the Office of the United Nations High Commissioner for Human Rights (OHCHR) are developing an SDG 16 survey to collect national-level data on 13 SDG 16 indicators, which includes a module on access to civil justice that will collect data specific to Indicator 16.3.3 (UNODC, OHCHR and UNDP 2021a). The data collected as part of the access to justice module of this SDG 16 survey will be disaggregated by sex, age, income, disability status and population group (UNODC, OHCHR and UNDP 2021b: 4). Given the relative novelty of this indicator, official data are not yet available.

The Covid-19 pandemic has hindered data collection on SDG 16.3. One of the most direct impacts of the pandemic on data collection has been the disruption of face-to-face household surveys. At the onset of the pandemic, nearly all national statistical offices (NSOs) reconsidered their data collection initiatives in an effort to minimize the spread of the virus. A survey conducted by the UN and the World Bank found that 96 per cent of NSOs surveyed reported having partially or completely halted face-to-face data collection as of June 2020 (United Nations and World Bank Group 2020a: 3). Among NSOs that were unable to conduct a planned survey as a result of the pandemic, more than half responded to this disruption by changing the method of data collection or the source of data entirely (United Nations and World Bank Group 2020a: 14). In low- and lower-middle-income countries, 9 in 10 NSOs reported that the Covid-19 pandemic had negatively impacted their operational capacity and 'their ability to meet international reporting requirements' (United Nations and World Bank Group 2020a: 3). Furthermore, many NSOs have had to refocus their attention during the pandemic and meet the need for information on Covid-19: 82 per cent of NSOs globally have worked to gather information on the socio-economic, health, infrastructure and public service aspects of the pandemic (United Nations and World Bank Group 2020b: 9). These capacity shocks and shifting priorities have resulted in increased barriers to data collection on SDG 16.3.

In light of the challenges to gathering and using official data, non-official data are more important than ever. Non-official data are critical to filling gaps in data availability, ensuring that 'figures portray the genuine reality within society' and providing insights at the subnational level (TAP Network 2021: 36). This is particularly important for SDG 16.3: consultations with nearly 100 justice data users found that official justice data are hindered by weak coordination, data fragmentation, capacity gaps and an overreliance on administrative data (Chapman et al. 2021: 6–7).

The SDG16 Data Initiative's complementary indicators for SDG 16.3 are a strong example of the value of non-official data. Data for these complementary indicators come from Factors 7 and 8 of the *WJP Rule of Law Index*, which capture the accessibility, affordability, effectiveness and impartiality of the civil justice system and criminal justice system, respectively. These data provide a multidimensional view of the state of both civil and criminal justice. What's more, country coverage of Factors 7 and 8 has increased from 128 countries in 2020 to 139 countries in 2021.

In addition to the complementary indicators for Target 16.3 that come from the *WJP Rule of Law Index*, non-official data on SDG 16.3 can be derived from legal needs surveys. WJP recently launched the Atlas of Legal Needs Surveys, a new resource that serves as a critical source of data on SDG Indicator 16.3.3, particularly as countries work to generate their own official data for this new indicator. The Atlas is a directory of legal needs surveys conducted globally since 1993. Including more than 90 studies covering 108 countries and jurisdictions, the Atlas can provide decision-makers with key data on the state of access to civil justice globally. The Atlas of Legal Needs Surveys includes studies conducted by governments, civil society and other research institutions, and will be updated as new legal needs surveys become available.

> " One of the most direct impacts of the pandemic on data collection has been the disruption of face-to-face household surveys.

> " Non-official data are critical to filling gaps in data availability, ensuring that 'figures portray the genuine reality within society' and providing insights at the subnational level (TAP Network 2021: 36).

Effectively utilizing non-official data to measure progress on SDG 16.3 will require coordination and cooperation among a diverse ecosystem of producers and users of justice data, including governmental and non-governmental data producers and users. Guidelines for assessing the quality and utility of non-official data are also essential: guidance from the *Praia Group Handbook on Governance Statistics* suggests that statistical offices seeking to work with non-official data assess the methodological standards employed by non-official data producers (Praia Group on Governance Statistics 2020: 15–16). Similarly, national statistical offices can collaborate with producers of non-official data to establish a complementary relationship between official and non-official statistics. One example of this in practice comes from the United Kingdom Office of National Statistics (ONS), which has developed a framework to assess the quality of non-official data that enables the use of non-official data in a standardized way.

New technologies offer additional opportunities to generate insightful and actionable data on SDG 16.3. Big data and citizen-generated data are two alternative data sources that can be used for additional insights into the SDG indicators. While such alternative data sources are not frequently utilized in the justice and rule-of-law sectors, there are examples of such data sources being utilized to track other SDG indicators (Hassani et al. 2021: 17–18). Use of citizen-generated data (CGD) by governments improves overall data quality and usability in multiple ways: CGD allows for greater coverage, the conservation of resources and improved data quality, and it also deepens collaboration with non-governmental actors (Wilson and Rahman 2015: 9). As the governance community continues to work towards advancing SDG 16.3, opportunities to use new and alternative data sources should be explored.

FIGURE 5.6

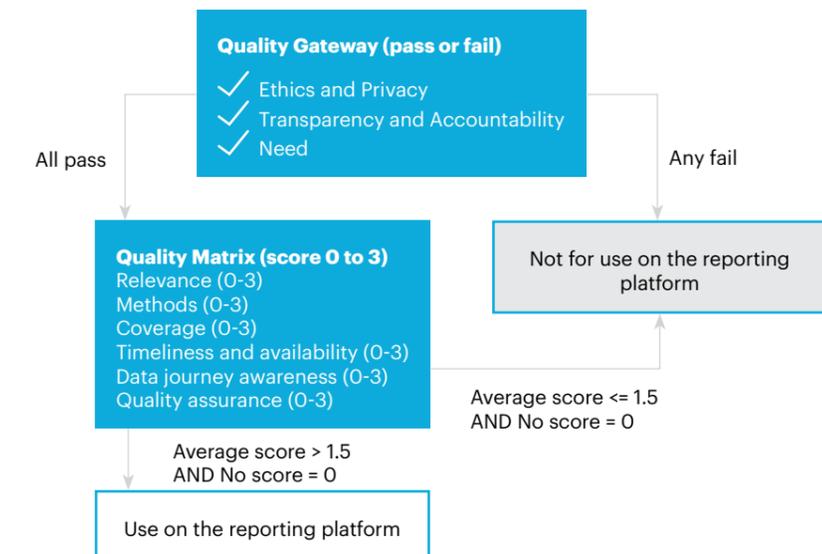**Atlas of Legal Needs Surveys**

FIGURE 5.7

ONS criteria for assessing non-official data

Source: United Kingdom Office for National Statistics, 'UK Sustainable Development Goals: Use of Non-Official Sources', 8 July 2021, <https://www.ons.gov.uk/economy/environmentalaccounts/methodologies/uksustainabledevelopmentgoalsuseofnonofficialsources>. accessed date 2 oct 2021

Key recommendations for SDG 16.3

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Data are an essential tool for implementing a holistic approach to building back better. Data are vital for ensuring that justice policies and services appropriately target people's justice needs and for evaluating the extent to which they have a meaningful impact on people's lives.

Decision-makers can advance SDG 16.3 by taking a holistic approach to policymaking and justice service delivery. In the short and medium term, policymakers should ensure that the rule of law and access to justice are mainstreamed into Covid-19 pandemic response and recovery. The rule of law and access to justice are vital for achieving public health goals: they nurture trust in institutions and underpin the social contract among citizens, both of which are indispensable to solving a crisis that requires a collective approach (WJP 2020a: 1).

Decision-makers should take a holistic and inclusive approach to designing and delivering justice services by engaging with a variety of actors, including members of civil society and actors outside of the formal justice system (Pathfinders for Peaceful, Just and Inclusive Societies 2020a: 25–26). Grassroots justice actors are also key players in the global movement for advancing SDG 16.3, and they should be supported through strategic financial investment, protection from attacks by public and private actors, and inclusion of grassroots initiatives in national action plans (Justice for All and Pathfinders for Peaceful, Just and Inclusive Societies 2020: 7–8).

Decision-makers must recognize the unique challenges experienced by historically marginalized and vulnerable populations. Advancing SDG 16.3 requires understanding and responding to the unique challenges and experiences of the most vulnerable. Recovery initiatives should take special measures to protect vulnerable groups such as migrants, refugees, those with disabilities, children and women (WJP 2020b: 11), and focus on engaging with populations that have traditionally been neglected or excluded from justice systems (Pathfinders for Peaceful, Just and Inclusive Societies 2021: 16). Strengthening the social contract requires that decision-makers not only look ahead but also look back to understand historical, socially entrenched and structural injustice in order to resolve grievances (Pathfinders for Peaceful, Just and Inclusive Societies 2021: 12).

Another area of focus for ensuring the long-term sustainability of rule-of-law and justice initiatives should be generating sustainable financing and embracing technological change. Boosting action and driving sustainable progress on SDG 16.3 cannot be done without a focus on sustainable financing. Decision-makers must prioritize smart financing strategies that are responsive to the evolving health crisis and ensure continued justice service delivery (Pathfinders for Peaceful, Just and Inclusive Societies 2020a: 25). Technology can be a powerful and cost-effective tool for advancing progress on SDG 16.3, with the digitalization of justice services improving the accessibility and affordability of justice for many, and therefore providing an opportunity to boost citizen confidence in institutions and facilitate citizen engagement (Steven and Williams 2021: 32).

Building a healthy justice data ecosystem is vital for a people-centred and evidence-based approach to delivering on SDG 16.3. Data are an essential tool for implementing this holistic approach to building back better. Data are vital for ensuring that justice policies and services appropriately target people's justice needs and for evaluating the extent to which they have a meaningful impact on people's lives. A people-centred approach to advancing SDG 16.3 is therefore not possible without the right data for targeting and measuring progress.

The push for better data on SDG 16.3 must also be a push to effectively *use* available data to inform and improve decision-making. Data-driven decision-making can facilitate progress on SDG 16.3 by identifying cost-effective and impactful policy options (Chapman et al. 2021: 16–17). However, the justice and governance sectors generally lag behind other social sectors—such as health and education—in taking up data-driven and evidence-based decision-making (Chapman et al. 2021: 11).

Drawing on consultations with nearly 100 users and producers of justice data from over 35 countries, the WJP and Pathfinders for Peaceful, Just and Inclusive Societies recently released the *Grasping the Justice Gap* challenge paper, which discusses priorities for building a healthy justice data ecosystem and a culture of data-driven policies and services in the justice sector (Chapman et al. 2021). These priorities are organized around three overarching objectives for people-centred justice data: (a) understand the scope, nature and impact of justice problems; (b) design and deliver people-centred strategies; and (c) measure what works, then learn and adapt. Achieving these objectives will require coordination and collaboration among a diverse coalition of users and producers of justice data, including leaders in the justice sector, national statistical offices, civil society organizations, multilateral and international organizations, and donors and foundations. The WJP's forthcoming report *People-Centered and Data-Driven: A Guide to Justice Strategies* will provide more detailed guidance on operationalizing many of the priorities identified in the challenge paper.

Ultimately, decision-makers at the national and international levels can use two key windows of opportunity to deliver on the promise of SDG 16.3. The first is to respond to the call to build back better by taking a holistic and integrated approach to strengthening the rule of law and justice service delivery. Such an approach has the potential to strengthen the social contract and respond to the justice needs of those most at risk of being left behind. Second, the recent adoption of the new Indicator 16.3.3 on access to civil justice serves as a call to countries to collect new justice data and to use existing justice data from official and non-official sources. In doing so, decision-makers can use data to ensure that efforts to advance SDG 16.3 and build back better are delivering outcomes that respond to the justice needs of people and communities.

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Endnotes

1   These documents are known as the 'China Cables' (International Consortium of Investigative Journalists 2021).

2   Such a project, called 'Conflict Cartographer', is currently being tested at the Peace Research Institute Oslo (2021).

3   These documents are known as the 'China Cables' (International Consortium of Investigative Journalists 2021).

4   Countries indicated in dark grey are those that experienced at least one violent event. The black circles indicate the location of those events.

3   For a discussion, see Marquardt et al. (2017).

6   Such a project, called 'Conflict Cartographer, is currently being tested at the Peace Research Institute Oslo (2021).

7   For example, the first of the Ethical Journalism Network's five core principles of ethical journalism includes the following statement: 'We should always strive for accuracy, give all the relevant facts we have and ensure that they have been checked' (Ethical Journalism Network 2021).

8   As Alfred (played by Michael Caine), the butler in the movie The Dark Knight, stated: 'some men aren't looking for anything logical, like money. They can't be bought, bullied, reasoned, or negotiated with. Some men just want to watch the world burn.'

9   This aligns with the definition adopted by the Centre for Law and Democracy (2021: 1) in its submission to the UN special rapporteur for freedom of expression for an annual thematic report on disinformation.

10   Mercola's anti-vaccine engagement did not start with COVID-19. See Satija and Sun (2019).

11   Emphasis in the original.

12   Which will depend on the particular nature of the services provided over their platforms.

13   See, for example, Hiar (2021).

14   See, for example, UNESCO's two policy briefs in this area: Posetti and Bontcheva (2020a); and Posetti and Bontcheva (2020b).

15   The four special international mandates on freedom of expression—at the United Nations, the Organization for Security and Co-operation in Europe, the Organization of American States and African Commission on Human and Peoples' Rights—have adopted a joint declaration on freedom of expression every year since 1999.

16   The Broadband Commission report Balancing Act: Responding to Disinformation While Defending Freedom of Expression, which focuses on responses, runs to nearly 350 pages.

17   Voluntary National Review countries are those which volunteer to report on their progress in achieving the SDGs in any given year.

18   See, for example, Article 19 (2021), Human Rights Watch (2021) and International IDEA (2021),

19   See, for example, Rattray (2019).

20   The data cited in this paragraph covers the period up to August 2021.

21   The 2021 survey is found starting at p. 5 of this document. Most of the eight questions include follow-up questions.

22   UNESCO reports that in future it plans to develop another reporting instrument focusing on individual public bodies for countries that are interested in conducting a more in-depth assessment of their performance on RTI.

23   It may be noted that the scoring relates only to part of the data collected through the survey responses. Follow-up responses did not contribute to the scoring but were used to analyse trends and needs. The metadata document which explains how UNESCO uses the data collected via the surveys is available at <https://unstats.un.org/sdgs/metadata/files/Metadata-16-10-02.pdf>.

24   The 2021 report will be released on 28 September 2021, which is International Day for Universal Access to Information. The 2019 report, Highlights from the 2019 UNESCO Monitoring and Reporting of SDG Indicator 16.102. – Access to Information (Paris: UNESCO, 2019), is available at <https://unesdoc.unesco.org/ark:/48223/pf0000369160?posInSet=2&queryId=6d5dfcc0-142b-46ec-a3c9-6112fc055d6a>; and the 2020 report, From Promise to Practice: Access to Information for Sustainable Development (Paris: UNESCO, 2020), is available at <https://en.unesco.org/sites/default/files/unesco_report_16102.pdf>.

25   The document can be downloaded at <http://foiadvocates.net/wp-content/uploads/SGD-16.10.2-measuring-implementation.18-09.rev_.docx>.

26   The document can be downloaded at <http://foiadvocates.net/wp-content/uploads/SGD-16.10.2-Data-Sheet.score_.rev-1.xlsx>.

27   Methodological note: the World Justice Project Rule of Law Index is composed of two data sources—a general population poll (GPP) and qualified respondents' questionnaires (QRQs). The QRQs are conducted annually, while the GPP is conducted in each country every few years. The QRQs for the WJP Rule of Law Index 2021 were collected between October 2020 and May 2021, during the COVID-19 pandemic. For further information on the WJP Rule of Law Index methodology and the data collection time frame, please refer to the 'Methodology' section of the WJP Rule of Law Index 2021, beginning on page 181.