



HIGHER EDUCATION  
ENGAGES WITH  
**SDG 16**  
Peace, Justice and  
Strong Institutions



**UNODC**  
United Nations Office on Drugs and Crime



education  
for justice





IAU and UNODC, November 2021

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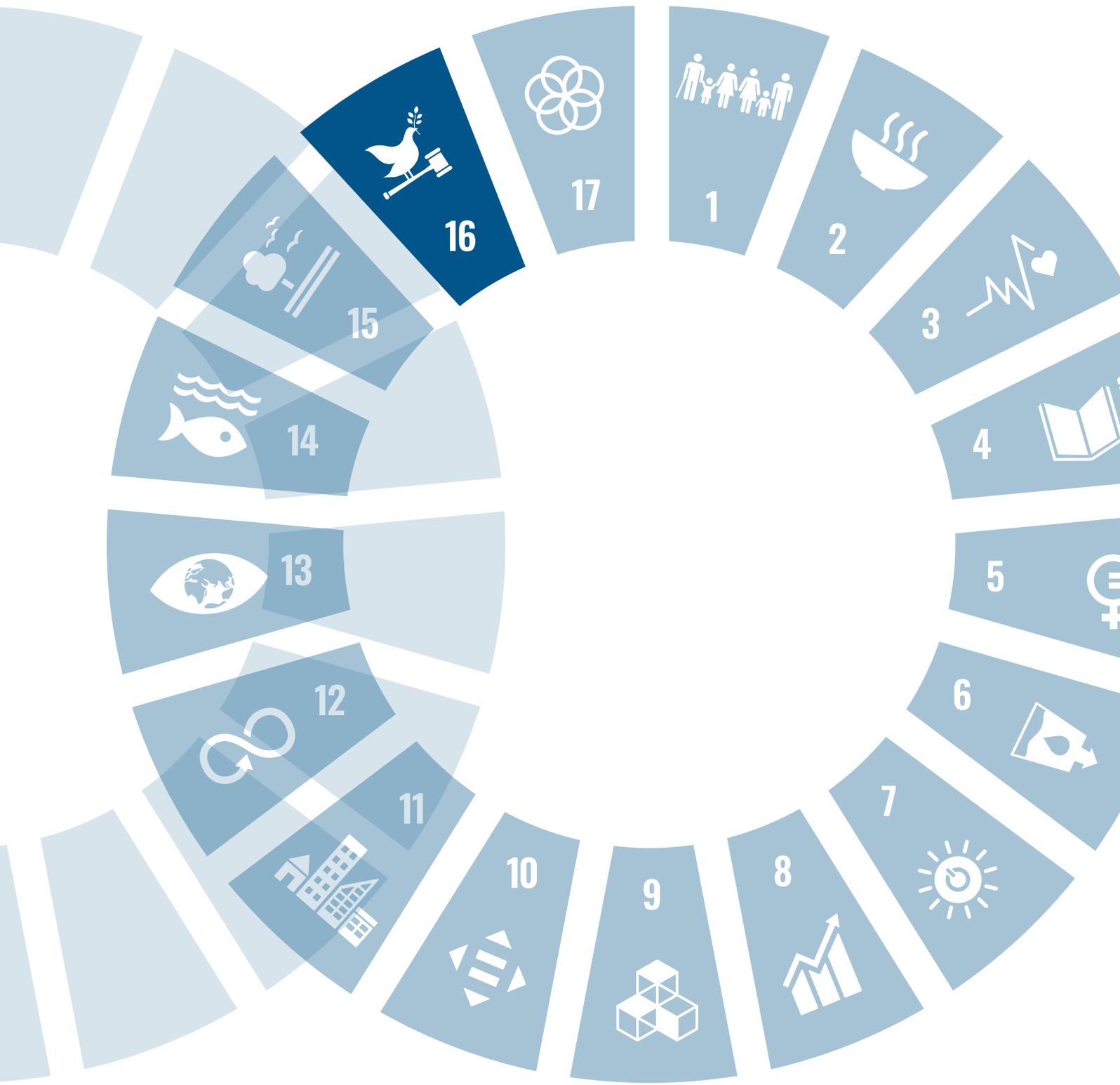
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# FOREWORD

## by UNODC

**T**he rule of law is the bedrock of just, inclusive and peaceful societies. It compels institutions to be accountable, to safeguard human rights, to be fair and transparent, and to empower citizens to participate and engage constructively in society. In so doing, it creates a culture of lawfulness in which citizens understand, participate in defining, and respect laws for the benefit of the whole of society. Education, including higher education, has an important role in promoting the rule of law and fostering sustainable development. In essence, it provides both an important protective function by strengthening learners' abilities to face and overcome difficult life situations and preventive function as it strengthens the learners' ability to take an active role in society; implement the rule of law and a culture of lawfulness and to prevent difficult situations.

UNODC's Education for Justice (E4J) initiative seeks to prevent crime and promote the rule of law through educational tools and resources designed to help educators teach the next generation to better understand and address problems that can undermine the rule of law. The initiative aims to support tertiary level educators and academics in their efforts to transmit knowledge and create a deeper understanding of rule of law related issues, with a focus on the subject areas of crime prevention and criminal justice, anti-corruption, organized crime, trafficking in persons and smuggling of migrants, firearms, cybercrime, wildlife crime, counter-terrorism as well as integrity and ethics.

Academia and universities (and other higher education institutions) have a crucial role to play in today's rapidly changing global world which is increasingly driven by knowledge, information, innovation and ideas. However, as noted by several higher education leaders, it would be short-sighted to limit the scope of higher education's role to being important only for economic development and a source for innovative, sustainable ideas to resolve today's problems. Instead, higher education institutions need to be supported and recognized as places where the next generation will be empowered to become the leaders that are needed for

tomorrow. Equally important to prosperity and innovation are leaders who understand the rule of law, good governance, and how organized crime, terrorism and corruption can be countered effectively.

The United Nations Office on Drugs and Crime (UNODC) acknowledges this important role and aims to strengthen cooperation with academia, educators and higher education institutions, echoing their voices and Prominent capacity to help achieve the SDGs and contribute to the Decade of Action through teaching research, campus and community engagement initiatives.

With this collection of papers selected for the 2021 E4J-IAU Grants programme for Young Scholars, UNODC together with its partner the IAU are aiming at showcasing the commitment that Universities, research institutions and young academics have towards the study on rule of law related issues, pushing the global boundaries of shared knowledge on this issues, and therefore supporting them realizing their potential by becoming centres of academic excellence on SDG16 (Peace, Justice and Strong Institutions).

### Lulua Asaad

Education for Justice (E4J) Coordinator  
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### Leonardo Paradiso

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United Nations Office on Drugs and Crime (UNODC)



# INTRODUCTION

## by IAU

### *Higher Education engages with SDG 16: Peace, Justice and Strong Institutions*

Strong and innovative collaboration and partnerships in higher education and between higher education and society at large are essential to address the global challenges identified in the [UN Agenda 2030 and the Sustainable Development Goals \(SDGs\)](#) and to build a more sustainable future together. Therefore, the [International Association of Universities \(IAU\)](#), the global voice of higher education, has partnered with the [United Nations Office on Drugs and Crime \(UNODC\)](#), in particular connecting to its [Education for Justice \(E4J\) initiative](#), to foster specific attention to the important role of higher education to promote and enhance the rule of law and sustainable development.

Academia has a crucial role to play in conducting research related to the challenges identified in the UN Agenda 2030. The outcomes of such research support the development of policies and practices aiming at achieving the SDGs. Research also helps assess the impact of such policies. It is the next generation of scholars that needs to be empowered today to ensure it continues to meaningfully contribute to finding solutions to challenges related to sustainable development, and, in particular, to issues affecting peace, justice and strong institutions and the rule of law (SDG 16). Better understanding what fosters but also what hampers sustainable development for all is of crucial importance for the future. Researchers need to be equipped to undertake the much needed research; they need to be granted the autonomy and responsibility to do so and to be provided with the infrastructural and financial means required to conduct high quality socially relevant research.

However, the economic crisis deriving from the current COVID-19 pandemic will worsen the financial situation of too many universities and other higher education institutions and research institutions in too many countries. The two IAU Global Survey Reports on the impacts of COVID-19 on

higher education reveal that many universities, academics, researchers and scholars are in difficult financial situations and that overall the current crisis negatively affects grant programmes available to researchers, particularly those available to young scholars.

IAU and UNODC/E4J issued a call, and modest writing grants, for young scholars to contribute research papers on SDG 16 / E4J related topics. This unique publication is the first outcome of a grants programme that supports young scholars to conduct research on topics related to SDG 16 and the rule of law, to provide them with an international higher education platform to present their research, to foster networking, and to strengthen cooperation between academia and the United Nations.

We thank all applicants, the selected authors, the reviewers and all others who have been involved in this journey for having made this stimulating project come to fruition. We truly hope that the papers in this collection will inform readers worldwide, inspire academics and changemakers, and initiate the transformative processes we need at universities, in the communities they serve and way beyond.

Bonne lecture,

**Hilligje van't Land, PhD,**  
Secretary General,  
International Association of Universities (IAU)



**Isabel Toman,**  
Programme Officer, Sustainable Development,  
International Association of Universities (IAU)



**I.**

**INEQUALITY,  
SUSTAINABLE RECOVERY  
AND SDG 16**

# Contribution of SDG 16 to a Sustainable Recovery in Light of the COVID-19 Pandemic: The Case of Domestic Violence

by Ruth Okara, University of Nairobi, Kenya

## ABSTRACT

Reduced violence is one of the targets of SDG 16 on peace, justice and strong institutions. The COVID-19 pandemic resulted in the application of physical restrictions as part of the containment measures to combat its spread. “Stay-at-home” regulations became the cause of misery especially for many women and children who ended up being victims of domestic violence. In many countries, reporting such incidents became very difficult given the vulnerability of survivors and poor access to law enforcement agencies owing to reduced privacy and free movement. The research will look into how access to justice can be enhanced in situations where the survivors of domestic violence cannot speak out freely as well as prevention methods to be considered by relevant stakeholders. It will also explore current weaknesses in legislative and other safeguards for domestic violence survivors in “lock-down” situations and how institutions

of higher learning can embed such issues within their curricula. This will be critical in informing policies around prevention and reporting of domestic violence to further enhance SDGs 3 and 5 on good health and wellbeing and gender equality, respectively. This will ensure that all individuals, especially the most vulnerable, are protected from violence by application of more robust measures even in a post pandemic environment in line with the application of the rule of law. The methodology to be used in this research will involve desktop reviews of reports, statistical analysis of reported abuses and interviews with a variety of stakeholders.

## KEYWORDS

►► Pandemic / Domestic violence / Women / Gender / Justice

## Introduction

According to the World Health Organization, it has been acknowledged that pandemics are identified by their geographic scale and reach, when most people do not have immunity, rather than the severity of illness. In 2020, continuing to 2021 at the time of writing this paper, in an unprecedented magnitude the novel COVID-19 virus spread. It quickly morphed into a pandemic and became the wellspring of several other crises that affected humanity at different levels of society with the impact being felt by individuals, groups, communities and states. Paradoxically, efforts to contain the virus became the catalyst for other socio-economic problems. With the rising unemployment, loss of livelihoods, businesses incurring severe losses or totally collapsing breeding an environment of uncertainty about people’s economic security or that of their dependants, many people became emotionally and economically vulnerable with the most affected persons being women. Further, containment measures for the pandemic-imposed restrictions on movement as they took the character of lock-downs, curfews or “stay-at-home”

orders. In many countries, reports of domestic violence, some turning out tragic, sky-rocketed within weeks of enforcing containment measures and many authorities or actors in the field of human rights and social justice were faced with uncertainty regarding the best response mechanisms, from prevention of such occurrences, to helping survivors report and thereafter, monitoring the effectiveness of their interventions.

This paper intends to look into the unique aspects associated with domestic violence in the Kenyan context that emerged as a result of the recent pandemic and require special attention. It will look at the cycle of domestic violence through the lens of a world afflicted with a pandemic: from its triggers to its typology and what the expected or unintended outcomes are after various interventions are made. To strengthen the strategies used to achieve SDG 16 and SDG 5, new solutions are needed to deal with new challenges and opportunities. To give more context in assessing the place of highly vulnerable women, examples will be picked from Kenya in gauging the issues to

be analysed from the perspective of a developing country. An assessment of these challenges and opportunities, as well as a discussion on how these can be combined with higher education curricula to create a harmonized understanding of the issues, will form part of the paper.

## Domestic Violence: An understanding and focus areas

Many countries in the world have been pulled into the discussions addressing gender-based violence (GBV). The United Nations' definition of domestic violence includes sexual violence, violence against women, domestic violence, and harmful traditional practices, such as female genital mutilation. "Domestic violence" or "intimate partner violence" is defined as a pattern of behaviour in any relationship that is used to gain or maintain power and control over an intimate partner. Abuse is defined as physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person<sup>1</sup>.

## An assessment of Kenya's Legislative framework on GBV

One of the international treaties that is relevant in guiding the discussions on GBV is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which entered into force as an international treaty on 3 September 1981. As Kenya is a signatory, it forms part of its laws by dint of Article 2(6) of the Constitution of Kenya, 2010, which states that all conventions and treaties that have been ratified by Kenya form part of the body of laws. Further, CEDAW ranks higher than Acts of Parliament in terms of superiority of laws. Although CEDAW is the normative framework for mapping areas of gender discrimination that may foster violence against women (VAW), it fails to explicitly define VAW or domestic violence. The CEDAW Committee in General Recommendations 19 and 35 therefore became useful in elaborating GBV. General Recommendation 19 paragraph 6 notes that the definition of discrimination under the Convention includes GBV. It also states under Paragraph 7 states that GBV that impairs the enjoyment of fundamental rights and freedoms would amount to discrimination. Paragraph 26 further notes that family violence is insidious and rampant affecting women of all ages. It adds that this is exacerbated by traditional beliefs and lack of economic empowerment. It also importantly notes that a member state may be held accountable for failing to prevent private incidents of VAW within its territory. General Recommendation 35 recognizes that prevention of GBV is a norm in international customary law while stressing the needs to change social norms that perpetrate GBV.

1. <https://www.un.org/en/coronavirus/what-is-domestic-abuse>

The **Constitution of Kenya, 2020** as the supreme law in Kenya, under Article 29(c), provides that every person has a right to freedom and security of their person which includes the right not to be subjected to any form of violence from either public or private sources, and any form of torture whether physical or psychological or cruel, inhuman or degrading treatment.

The **Protection Against Domestic Violence Act (PADVA), 2015** defines domestic violence as violence against a person, or threat of violence or of imminent danger to a person, by any other person with whom the person is, or has been, in a domestic relationship. It further defines a variety of relationships that could be deemed as domestic relationships and these include those between persons living in the same household or having a close personal relationship with each other such as intimate partners and spouses, which relationships are the focus of this paper.

Although not having GBV survivors as the only targets, the Victim Protection Act, 2014 was enacted to provide for protection of survivors of crime and abuse of power and provide them with better information and support services, reparation and compensation and offer special protection for vulnerable survivors.

Whereas the Constitution guarantees personal security and both PADVA and the Victim Protection Act criminalise domestic violence and provide stringent measures in punishing perpetrators, the legislations contain gaps in terms of actual and measurable steps to be taken for the protection of victims. Kenya still lacks state sponsored safe houses or shelters for survivors or threatened persons and the laws do not provide for a framework of establishment of these safe spaces. The legislations also lack directions on specific measures to be taken in areas where a crisis might emerge that may enhance the occurrence of GBV.

Although, the **Sexual Offences Act, 2006** covers a wide variety of offences, it fails to cover marital rape which leaves many spouses exposed to repeated violations. Also, the Constitution allows the application of Muslim law in matters relating to marriage where the parties are Muslims. As such, the Kadhi's courts could issue an order for restitution of conjugal rights which, in cases of abuse, would further re-victimize the survivor.

To avoid case backlogs in courts, the Constitution<sup>2</sup> encourages settlement of disputes through alternative dispute resolution (ADR) mechanisms such as mediation which in the Kenyan context is prone to male chauvinism since the male members of the community dominate the process in many traditional ADR structures such as the "council of elders" (The Alternative Justice Taskforce, 2020).

2. Article 159(2)(c)

Although formal laws exist to protect women against discrimination, it is worrisome that many resort to ADR mechanisms because of a lack of faith in the ability of the Judiciary to deliver timely justice as well as lack of funds to finance regular court attendance by survivors or cover litigation costs (Kameri-Mbote, 2018). Thus, a careful approach must be taken in rolling out ADR mechanisms to ensure responsive, inclusive and representative decision-making as per target 16.7 of SDG 16.

In general, the gaps present in the laws must be addressed. The application of ADR must be carefully guided and traditional structures must include women to help in achieving fair outcomes for both sides. Legislation should also look beyond retribution and embrace a survivor-centric approach. These amendments would reduce domestic violence and enhance access to justice.

## Domestic Violence in the COVID-19 Pandemic

### Why it matters

A careful analysis of the development of international law and local legislation crafted to protect women against GBV in both the public and private spheres confirms that GBV is a vice whose impact goes beyond the individual survivor or time of occurrence. The health and socio-economic costs associated with domestic violence warrant global attention just as much as the COVID-19 pandemic did. A lot of resources are also needed and spent to deal with the effects of GBV. Also, SDG 5 requires that women must fully participate and have equal opportunities for leadership at all levels of decision-making in political, economic and public life<sup>3</sup>, which they cannot effectively do when their well-being is impaired<sup>4</sup>. As such, an inquiry into the challenges and interventions needed to fully address GBV which mainly manifested during the COVID-19 pandemic through domestic violence is necessary. Both GBV and COVID-19 became health and security emergencies although the former disproportionately affected women.

COVID-19 resulted in escalation of GBV and the effects of domestic violence cannot be downplayed. Intimate partner violence is associated with many effects including PTSD (Post-Traumatic Stress Disorder), depression, chronic pain and sexually transmitted diseases (Campbell, 2002) some of which can be observed in both abused and post-abused

women (Woods, 2000). It is important to note that the effects go beyond the physical and the time of the abuse since it is reported that survivors of domestic violence could experience a sequela of psychological symptoms that include anxiety, depression, avoidance, reexperiencing of traumatic events, and hyper-arousal (Walker, 2015).

Pandemics may hinder the ability of survivors to obtain support since they may result in the breakdown of societal infrastructure, as functional health, transport, food, sanitation, legal, security and other governance structures may temporarily contract or become dysfunctional (Briody, *et al.*, 2018). This in turn exposes women and children to unsafe and risky settings especially where the burden of caregiving is upon them. Ultimately, other fundamental human rights would be hindered which might even threaten the very survival of such persons.

Given the heavy cost of domestic violence, a systematic understanding at different stages of its cycle and the impact of the pandemic at every stage is important in framing the needed solutions.

### Triggers and Causes

With the onset of the COVID-19 pandemic, it was reported by media and non-governmental organizations in Kenya that the calls to helplines had surged more than ten-fold since lockdown measures were imposed in late March 2020, although official statistics were missing. In an interview with Caren Omanga, who runs a Community Based Organization (CBO) known as the Nyabende Social Justice Centre within Nyando sub-county, the number of domestic violence cases recorded at the centre in 2019 were 28 compared to 50 recorded in 2020. This indicates a 78% increase in just one year (Okara, 2021a). Another CBO based in Kisumu, the Women Concerns Centre (WCC), recorded 6 cases in 2019, 10 cases in 2020 and 15 cases at end of May 2021, indicating a worrisome upward trend. President Uhuru Kenyatta ordered the National Crime Research Centre to carry out a study to establish the reasons for the escalating cases of GBV (Bhalla, 2020). The findings of the study established that the number of GBV cases recorded between January and June 2020 had increased by 92% compared with the previous year (Ministry of Public Service and Gender, 2021). It was noted that GBV was exacerbated by several factors including the effects of the containment measures, high levels of stress due to confinement and more opportunity for conflict due to heightened interactions among those in domestic relationships, especially because they needed to stay home as their children could not attend school. Also, norms that governed social behaviour were disrupted when women were separated from their families and protective communities, and this presented an array of protection concerns that uniquely impacted such settings.

3. Target 5.5.

4. CEDAW Committee, General Recommendation No. 19 on Violence Against Women. Comments on Article 2(f), 5 and 10(c) under para. 11 states, "...the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities."

Some key factors that precipitate domestic violence in the pandemic, that will be referred to as “triggers”, are discussed below to offer better insights.

## Mental Health

Pandemics and health crises have been associated with problematic coping behaviours, anxiety, suicide attempts and mental health disorders, including post-traumatic stress and depressive disorders, with quarantines, social isolation and limitations on freedom as possible contributing factors (Brand *et al.*, 2013; Lau *et al.*, 2005; Mak *et al.*, 2009; Reissman *et al.*, 2006; Yeung and Fung, 2007). Controlling behaviours and further acts of violence may also be coping mechanisms for perpetrators who feel a loss of control due to lost freedoms occasioned by quarantine measures. Isolation is an established abuse tactic for intimate partner violence (IPV) even outside of pandemic contexts.

According to research by Zhang *et al.*, 2020 increased prevalence of depressive symptoms could also be observed among COVID-19 patients. The study reported a significant rise in anxiety levels of the COVID-19 patients as well as the general public. In return, these mental health issues and related factors such as alcoholism tend to lead to a rise in gender-based violence. Sales of alcohol also tend to skyrocket during pandemics to a rise as high as 55% recorded in some countries such as the United States (Polakovic, 2020; Zhang *et al.*, 2020).

Discussions on mental health are gaining traction in Kenya and other parts of the developing world. A wealth of research has been done to assess in more depth the characteristics of high conflict personalities and diagnostic labels have been attached to certain patterns of behaviour with perpetrators being advised to seek therapy. Although not all cases of domestic violence have been occasioned as a result of mental health, it is unquestionable that psychological problems have a key role to play and tend to significantly worsen when individuals are facing a crisis or some pressure. In light of this, some countries, including Kenya, have initiated the necessary steps in order to ensure that mental health is given the needed attention especially in times of crisis. Psychosocial support was largely targeted towards survivors, however, this only remains a reactionary measure as the perpetrator of violence is likely to engage in more acts of violence when medical or legal interventions are not present. Deeper reflections need to be made on the following questions: How did various countries deal with mental health during the pandemic? What was the measurable difference in the outcomes of domestic violence compared to those that did not? Should the discussions of mental health be given more prominence in discussing not just retributive justice for survivors but health rights to ensure they are provided with psychosocial support? These

are some questions that need to be addressed in further research as they have not been captured within this paper.

## Social Norms

A significant number of domestic violence cases indicate that men are the main perpetrators of domestic violence and women are the usual victims (Walby and Allen, 2004). This phenomenon has been linked by many scholars to sexist social constructions of women as inferior to men and this tends to normalize VAW. In many cultures, the man is expected to be the provider of the home and with more economic muscle. Poverty is likewise gendered across the world with many women lacking an opportunity to advance economically or facing unique challenges at the work place such as receiving lesser pay and having less room to negotiate for better terms at work especially when they become involved with issues of childcare. Job cuts arising out of the effects of COVID affected both genders but the effects on each gender manifest differently owing to the societal norms. It was seen that loss of livelihood disproportionately bred feelings of inadequacy and vulnerability among many men, which resulted in heightened stress levels that were projected through acts of violence. During an interview, Lillian Onyango (Okara, 2021b), Programme Assistant at the WCC, mentioned that it is almost taboo for a Luo<sup>5</sup> couple to accept to go to court to settle an IPV case. This was seen as exposing the private affairs of the family and supplanting the man’s authority over his personal affairs.

## Penalties and Deterrence

One of the primary functions of criminal justice is to mete out punishment, especially in cases of serious crimes, which act as deterrent measures for similar crimes. In many countries, violence is taken to be a crime which can result in the perpetrator receiving a custodial sentence. In some countries, including Kenya, legislation on domestic violence has been removed from the general criminal law framework contained in the Penal Act. PADVA was enacted to provide for the protection and relief of survivors of domestic violence. However, the remedies under PADVA are in the nature of restraining orders. The process of obtaining such orders requires an application to court which is of a civil nature for which the state does not offer financial support. The effect of this has caused unintended outcomes in trying to deter parties from violence, and similarly survivors have been less willing to pursue orders in court. Regardless of the fact that the survivors are not prevented from pressing criminal charges against their abusers, many women cannot afford legal representation to obtain the civil remedies

5. A Nilotic ethnic group native to Western Kenya and among the largest ethnic groups in Kenya.

made available by the legislation. Consequently, due to little reporting and the civil nature of the orders given, the perpetrators are not discouraged from committing further acts of violence.

Lack of police intervention has also fostered violence. In an interview, Erick Okioma (Okara, 2021c), who runs a CBO known as the Nelson Mandela TB HIV Information CBO within Kisumu, indicated that a significant number of women reported cases of assault to the police but these were not taken up due to bribery which sometimes resulted in lack of prosecution or intimidation of the survivor by the police.

Consistently low conviction rates are noted to create a positive feedback loop, wherein malfunctioning systems discourage women from reporting incidents of violence, thus shielding perpetrators—particularly in Low- and Middle-Income Countries (LMICs) where access to formal legal services and systems is extremely limited (Mueller *et al.*, 2019; Larcombe, 2011). In many African cultures, a conciliatory approach in dealing with domestic violence is encouraged and this may encourage law enforcers, religious leaders and other justice actors to have a lack lustre attitude whenever such cases are reported. A similar observation was also made by Onyango (WCC) (Okara, 2021b, who recorded that a majority of domestic violence cases were resolved outside the court process, which, although not fully effective, were a less costly and quicker option for survivors.

In many LMICs, the problem of gender-based violence during the pandemic further worsens because the police are unable to tackle such reports due to resource constraints as they are likely to be engaged in enforcement of containment measures (Mueller *et al.*, 2019). In Kenya, a lack of responsiveness by the police due to diverted attention also discouraged reporting. This is according to Onyango (WCC) who indicated that the police were more focused on enforcing the daily curfew and other stringent containment measures and failed to address domestic violence cases effectively. The designated gender-desks<sup>6</sup> in many police stations thus remained unattended or under resourced.

## Economic Security and Domestic Violence

With a sudden shift in how businesses are conducted and reduced levels of operations in corporates and other institutions across the world, many states were caught up in a whirlwind of competing needs in order to meet the socio-economic needs of employees and citizens while at the same time ensuring that containment measures and health emergencies arising out of the pandemic were being

addressed appropriately. LMICs, such as Kenya, lack a safety net that would cater for their citizens in cases of sudden economic shocks. Appropriate social security policies are needed in both pre and post pandemic worlds to lighten the burden on individuals and families. This requires countries to grow robust economies and consider gender mainstreaming where domestic violence<sup>7</sup> can be understood to be a consequence of inadequate or lack of social security, where men largely act out of frustration and women remain in hostile environments due to their desperate circumstances (Bhalla, 2021).

Several studies link economic insecurities to increased gender-based violence especially when linked to adoption of poor coping strategies that are inclusive of substance abuse. However, it is curious that interesting gender differences can be observed as Bhalotra *et al.*, 2019 reported that increase in male unemployment was associated with increase in interpersonal violence against women where an increase in women unemployment was associated with a decrease in violence against them. According to (Schneider *et al.*, 2016), such an outcome could be because of male backlash resulting from feelings of emasculation and inadequacy at not being able to serve the traditional role of a breadwinner of the family. As significant job losses were experienced across genders, it is likely that this triggered more IPV.

In Kenya, the economic shocks that emerged out of the pandemic resulted in domestic turmoil. Data released by the Kenya National Bureau of Statistics revealed that more than 50 percent of working women were rendered jobless by the pandemic. The survey further revealed that more women than men worked in jobs that were more vulnerable to disruption (Kenya National Bureau of Statistics, 2020). Onyango (WCC) noted that for many low-income families, financial constraints precipitated domestic violence. She noted that unforeseen costs such as those incurred to purchase masks and sanitizers added economic stress. The closure of open-air markets as a containment measure also cut the income streams of many women, some of whom opted to engage in extra-marital affairs or take up sex work in order to fend for their families, which, in turn, triggered conflict and violence. Likewise, she stated that in order to remain financially liquid, some men opted to sell off parcels of land or other property without informing their partners and confrontations regarding the same were met with a violent response. However, she noted that linking women and survivors to women self-help groups was seen as effective in reducing GBV which emanated as a consequence of financial constraints.

6. This is a desk or room(s) or a unit in the police station where the GBV cases are reported and investigated. They were established in the police stations of Kenya to address GBV.

7. World Bank data available on <https://data.worldbank.org/indicator/EN.POP.SLUM.UR.ZS?locations=KE>

## Technology and Domestic Violence

Technology in a pandemic is a double-edged sword. Through the lens of justice actors, its most appreciated value lies in the fact that the same is used to efficiently relay messages of distress whenever needed. However, it can also be used to further manipulate and control survivors either remotely or in a domestic setting through the use of tracking mechanisms. Efforts to report abuse by a survivor may be stopped once a perpetrator notices the intentions of the survivor. They may decide to threaten the survivor or chose to frustrate any kind of reporting through cutting off links with law enforcers or other persons that may respond to the survivor's cry for help. When partners are forced by circumstances to be in different geographical places, tracking and monitoring could be picked up as a habit by one of the partners. Depending on the degree of their excessiveness, normal check-ins on another partner through texting and phone calls could crescendo into abuse and this is further discussed below while assessing the common manifestations of abuse in a pandemic.

## The Nature of Domestic Violence in a Pandemic

Domestic violence in an environment where movement is restricted, such as is the case when a lock-down is imposed would likely take the nature of actual physical violence, emotional abuse, economic abuse and restricted access to facilities in the house. Cases of physical violence were therefore reported to have increased although other types of abuse may have gone underreported. This is because physical violence is more evident and therefore is seen as more serious especially when there is visible physical injury suffered by the survivor whilst comparatively, there is a general lack of knowledge that other forms of abuse amount to domestic violence as well. According to both Onyango and Omanga, their CBOs only receive cases of physical domestic violence during the pandemic. Economic abuse would constitute a person restricting, exploiting and sabotaging their partner's access to money and other resources such as food, clothing, transport and housing. It is designed to limit someone's freedom. In the wake of a pandemic, there are many complaints whereby a domestic partner exhibits behaviour such as tracking all the expenditure of the other party or making all the financial decisions. Adequate checks are therefore needed to be put in place to prevent, report and monitor underreported forms of domestic violence common in such moments of crisis.

Emotional abuse is also used to gain power and control in a relationship and may take a number of forms including, but not limited to insulting, criticizing, threatening, gaslighting, ridiculing, shaming, intimidating, belittling and ignoring.

Also, many survivors of emotional abuse confuse this with the usual squabbles domestic partners are bound to have. The frequency of such behaviour is bound to increase where domestic partners share more time and space together as is the case where stringent measures owing to COVID-19 have forced partners to stay in their homes for extended lengths of time. Conversely, emotional abuse can also occur whereby partners are separated. During periods where domestic partners are separated from each other as was the case for many other couples, frequent "check-ins" by partners through calls or texts under the guise of caring, could easily morph into aggressive manipulation and control which may also go unnoticed. A partner may insist on wanting to know where the other is, who they are with and every other detail on their schedule which is indicative of emotional abuse. Though not always visible to the eye, the effects of both economic and emotional abuse can be just as traumatic and may cause psychological trauma, anxiety, depression, chronic pain, PTSD and substance abuse.

Given their subtle nature and going forward, awareness campaigns to alert survivors or potential survivors of economic and emotional abuse are critically needed as well as policies aligned to ensure that survivors are offered support at the time and after the incident or period of abuse.

## Domestic Violence Reporting during COVID-19

Reporting of domestic violence cases is fraught with challenges owing to the sensitive nature of the cases and other factors at play such as victim shaming, fear of retaliation, economic dependence and ignorance. Even in pandemics survivors may have certain fears such as losing their homes, facing negative financial consequences, social stigma, repercussions by perpetrators or losing child custody. Survivors may also suffer due to lack of information, lack of confidence in the police, lack of support services and the high cost of legal action.

With the onset of the pandemic, containment measures magnified barriers in reporting incidences of domestic violence. Many survivors were caught up in situations where they could not access help outside their domestic zones owing to the fact that any efforts to do that would easily be noticed and intercepted by the perpetrator owing to the lack of privacy in a home or the likelihood that the abuser would execute the kind of abuse that would intentionally ensure any means of communication was hindered. According to Bradbury-Jones and Isham (2020), lockdowns granted greater freedom to abusers as it became easier for the abusers to enforce control tactics by limiting the access of the survivors to phones, internet, and other people. Van Gelder *et al.* (2020) also emphasized that lockdowns limit familiar support options. A virus-related hindrance is that

the survivors of abuse may even be scared to visit a hospital for treatment of their injuries due to the fear of contracting the COVID-19 disease (Fielding, 2020), further reducing the likelihood of interaction / reporting of such instances of abuse during the pandemic.

Additionally, economically insecure populations tend to live in locations with weaker access to health and legal services (Haugen and Boutros, 2015) and a breakdown of generalized services means that some forms of routine detection and referrals for domestic violence will be lost. For example, women support groups (common in LMICs such as Kenya) where a woman is likely to be identified as a survivor of domestic violence, may no longer be functioning or could be operating at a greatly reduced capacity. In an interview with Easter Oketch (Okara, 2021d), the Executive Director at the Kenya Female Advisory Organization (KEFEADO), an NGO based in Kenya, she noted that due to containment measures, reporting became difficult because the GBV referral pathway was disrupted and survivors were not easily accessible to GBV actors and neither were services accessible to them owing to travel restrictions and stretched hospital facilities.

## Social Norms

Since many survivors of domestic violence happen to be women, it is imperative to discuss the challenges witnessed in reporting from a gendered perspective. It is also important to note that women are not merely victims of isolated incidents of toxic masculinity, rather, their lot is compromised due to a multiplicity of factors which when combined make it even easier for them to be targets of domestic violence. “Explanations for violence that focus primarily on individual behaviours and personal histories, such as alcohol abuse or a history of exposure to violence, overlook the broader impact of systemic gender inequality and women’s subordination” (Fergus, 2013). In light of this, negative norms that impact on women’s rights include certain societal expectation that women need to endure hardships, maltreatment and pain without questioning or complaining.

Globally, women are estimated to account for approximately 70 percent of the health workforce, and the majority of those in informal care taking roles in health (Boniol *et al.*, 2019) and as the pandemic surged, the extra labour needed both at home and in healthcare required more of them. SDG 3 regarding health and well-being hence interlinks in that aspect with domestic violence as the strain on women working in healthcare was bound to precipitate abrasions in the domestic sphere between partners. Literature suggests that women’s interest and ability to leave abusive partners is complex—particularly in LMICs and where divorce is uncommon and where social norms and financial realities

value family preservation and women may opt to stay for such reasons (Rajah and Osborn, 2020; Cuirria, 2018; St Vil *et al.*, 2017; Hall *et al.* 2012) This further highlights the importance of SDG 8 that focuses on the need for economic growth and decent work. In nearly all ethnic communities in Kenya, women are taught to blame themselves for lapses in home management and to expect backlash or “punishment” from their partners in case anything falls out of line. Hence, when violence is meted out, blame and shame impair the survivor’s objective assessment of the injustice and chances of reporting the same are highly diminished.

## Dependence

As has been highlighted, a variety of factors weave together to create a web that traps women in circumstances where even in apparent abuse, they fail to report the atrocities. Omanga noted that women who reported cases of IPV at her centre at the onset of the pandemic ended up going back to their homes as they depended on their partners for a livelihood. This was because most were employed in minimum wage jobs as housekeepers, waitresses and casual labourers in farms.

Owing to the fact that women constitute a fair share of subordinate staff and casual labourers across the world, job cuts occasioned by pandemics (which mainly affected said category of employees and workers) left women without any means of earning a living. Economic dependence predisposes women to many types of abuse including domestic violence. Also, Alon *et al.* (2020) state that fewer women than men are in tele commutable jobs, thus making it difficult for them to adapt to the changing conditions. As a result of gender stereotypes, women in particular are disproportionately affected by additional unpaid care (caretaking and caregiving for children, family members) work, which may further decrease their ability to undertake paid work (Wenham *et al.*, 2020).

As was stated earlier, economic shifts may result in changes in economic power between partners—with predictions of both increases and decreases in IPV when women gain additional economic power. Such may be the case that some male partners lost their economic power as a result of the pandemic and became violent due to the social norms’ undercurrent on psychology.

## Retaliation

As a result of the diminished privacy in domestic set-ups, reporting domestic violence was a major obstacle to accessing justice by survivors or by other persons in the same household. According to Onyango many women chose to overlook their current abuse out of fear that things

would become worse once they reported. Many survivors fear retaliation that could come upon interception of their distress call and as a result failed to report incidences of violence. There was an upsurge of femicides across the globe where many women succumbed to violent attacks from their partners which in most cases were repeated, but not reported as early and as often as they should have (Sheppard, 2021). Retaliation on survivors could take the form of exacerbated violence or the introduction of other forms of abuse towards the survivor which in most cases was instant owing to the dynamics of domestic living. For instance, some NGOs witnessed a drop in calls on helpline numbers by survivors by 50%, one of the reasons for this drop could have been the fear of getting discovered by the offenders at home (Chandra, 2020). The effectiveness of the helplines is reduced if it is not followed by necessary action and is merely recorded as data. Survivors would prefer a one-stop centre upon reporting their cases due to other external restrictions that may exist.

Justice actors introduced new methods to encourage survivors of abuse to report their cases without causing suspicion on the part of their abusers. Such interventions included using code words and symbols. Specific centres such as pharmacies were designated for reporting such cases Guenfound (2020). However, such methods required an essential level of residential planning for effective communication between neighbours and digital connectivity to allow distress calls to reach their target destination on time. In Kenya, a significant number of urban dwellers live in slums<sup>6</sup>. Poor urban planning posed a challenge to the many vulnerable persons trapped in violent homes. For that matter, fresh insight is needed to sensitize as many people as possible and justice actors have to take initiative rather than wait for survivors to report violence given sometimes the targets of abuse might not be able to identify other imperceptible forms of domestic violence or report abuse. The bigger picture would be for LMICs to improve policies on urban and rural planning particularly for easier monitoring and tracking.

## Domestic Violence Response and Interventions in a Pandemic

Several suggestions have been proposed by researchers and these may be applicable on a case-to-case basis depending on the circumstances of the state and/or the survivor. However, a crucial first step in tackling the issue of rising gender violence in the times of a pandemic is the acknowledgment of the issue, which has been ignored during the pandemics in the past (Hatchimonji *et al.*, 2020). This will ensure that necessary plans have been put in place by key actors to ensure firstly that such incidents are reduced, and secondly to avoid only a reactionary response to them.

It has been emphasized that expansion of community partnerships and sensitization on the importance of reporting incidents of abuse are crucial to reducing domestic violence (Campbell, 2020). According to Bradbury-Jones and Isham (2020) one way to deal with the issue of domestic violence is by constantly asking if people feel safe at home. However, in order to provide meaningful support, the people asking these questions must have the time and emotional resources. Sometimes the survivors may communicate in subtle and indirect ways that could be easily missed. Online and telephonic services for those seeking therapeutic interventions, counselling, or any other kind of support have been noted to be important. This may pose a challenge especially in rural Kenya where internet connectivity, literacy levels and the availability of specialized psychosocial support may be lacking.

Encouraging informal (and virtual) social support networks is a mechanism that may help women feel connected and supported, as well as serve as an alert or mitigation mechanism if perpetrators are aware that women and children maintain their social networks and are not isolated (Gerster, 2020). Gerster emphasizes that neighbours of families with violence can also help to reduce domestic violence by initiating conversation with them. According to WHO, healthcare workers need to be trained on how to recognize the signs of violence to tackle the issue appropriately. According to both Omanga and Onyango, most survivors needed consistent psychosocial support which their CBOs could not adequately provide and no government facility could offer for free.

An obvious outcome of any pandemic is an increased burden on health services and first responders. Health providers and emergency first responders are often the first point of contact for women experiencing violence, as well as sources of short-term physical protection for women experiencing a severe violent episode. Given the importance of evidence, survivors who face difficulties accessing medical facilities may further be impaired in seeking justice, if they are not able to obtain medical reports (Perry and Sayndee, 2016). Oketch (KEFEADO) noted that it was necessary to have one-stop GBV support centres owing to the various needs of the survivors and justice actors. Some scholars have also noted the need of having a trained multidisciplinary staff in designated response centres including psychologists, psychiatrists, and social and legal services to prevent acts of domestic violence and ensure accurate assessment of various domains of the abuse (Mazza *et al.*, 2020).

First responders, crisis hotlines, and civil society organizations such as women's groups who often serve as first points of call, intermediaries (such as paralegals) who connect women to legal channels, crisis support and safety planning, and foundations of housing and financial assistance are all critical as women navigate departure from

abusive partners (Postmus *et al.*, 2009). With movement restrictions, as well as economic strains, these organizations may be less active and able to support women.

At the moment there are no existing pandemic-specific evaluations linking such recommendations to causal reductions in domestic violence. More details are needed to guide the sequencing or timing of actions over the course of, and post-pandemic. Additionally, where existing services are weaker or do not exist, as in many LMICs, response may not be possible or may face great challenges. Notably in Kenya, many survivors could not access health services due to government-run Gender Violence and Recovery Centres (GVRC) being located within hospitals located in town centres, as observed by Oketch, since the distance and travel costs posed a challenge.

Relevant institutions must ensure that domestic violence is integrated into health systems response. Minimum care standards that include ensuring there is access to female health care workers, confidential spaces, and non-judgmental, empathetic care should be followed to ensure health systems and first responders are prepared to address domestic violence within pandemic settings. These are documented in the “Inter-Agency Minimum Standards for Gender-based Violence in Emergency Programming” (United Nations Population Fund, 2019). Frontline providers should also have support if they need to report to work, such as alternative and subsidized childcare options to allow them the freedom and peace of mind to give effective service.

Flexible funding mechanisms should be adopted and invested in and in times of uncertainty and crises, donors and implementers should reflect timely policies and guidelines for grantees and staff which allow the same. This will allow funding to be allocated away from contractual requirements and to operating (overhead) expenses with decreased reporting requirements enabling organizations to allocate funds where needed quickly and efficiently. Multilateral and bilateral donor institutions could also prioritize increased and gender-responsive investment to curb and mitigate the full array of the risks brought on by pandemics, including heightened domestic violence.

The East African Community noted that a reduction in GBV will be achieved through targeted advocacy aimed at influencing national priorities and promoting the partner States commitments towards strategic resourcing for women’s rights and gender equality during its COVID-19 interventions<sup>8</sup>.

In Kenya, it is crucial that a tracking system is introduced to monitor the safety and well-being of survivors. During

the research, all the interviewees agreed that a confidential database with details of GBV cases would be useful in developing targeted and effective interventions. Synergies among GBV actors are crucial to collate efforts and for sustainable use of resources. Since access to justice is a right contained within the Constitution, a human rights-based approach could be applied holding the duty bearers accountable in providing facilities such as safe houses which are crucial especially during pandemics. Justice actors such as police, health care workers, judicial officers and local administrators require more training to ensure that survivors are supported on their path to justice. More government funding should also go into mental healthcare both as a GBV prevention measure on the part of the perpetrators and to cover free counselling services for survivors even outside GVRC centres. The government also needs to create a special fund for survivors seeking legal representation. The gender desks in police stations would also need to be fully equipped with the resources needed for an adequate response during pandemics. Also, cash transfer programmes to support vulnerable people cushion pandemic-related economic shocks are needed. Moreover, continuous and rigorous efforts are required to put an end to the stigma associated with gender-based violence.

## Media Reporting

Journalism is indispensable in bringing domestic violence realities to the surface. However, covering the topic is a challenging undertaking. Not only is the topic widely misunderstood, but it is also increasingly complex and has many contributing factors, making coverage all the more difficult. More importantly, journalists need to be aware that their coverage, if not conducted under strict, professional standards, can be harmful to survivors in a multitude of ways. Between insensitive interviewing techniques, inaccurate reporting, personal biases and perceptions about gender and sexuality, and a lack of understanding of the legalities of criminal cases, journalists can unwittingly become part of the problem, re-traumatising survivors and allowing perpetrators to escape prosecution. When journalists fail to report owing to these factors the problem is further compounded by perpetuating a culture of impunity in which perpetrators are seldom held accountable.

There is a concern that media coverage might not give domestic violence the attention required as it is seen as a lesser threat than the pandemic although some began to refer to domestic violence as a “shadow pandemic”<sup>9</sup>. Messaging on IPV risks being sensational but journalists need to be clear on what is “in the public interest” and what is “of interest to the public” in order to fulfil their

8. <https://www.eac.int/gender/gbv/gbv-and-covid-19>

9. <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>

duty to provide information. Other principles would include accuracy, fairness, impartiality, respecting privacy, protecting sources, never paying for interviews and applying a survivor-centred approach.

Journalists can effectively tackle the subject of domestic violence by reporting these not as isolated incidents but as human rights issues. This will give their audience the opportunity to connect the issue to social norms, gender stereotypes, and human rights and not as isolated reports domestic assault. Issues such as gender, gender norms and the rights of women and girls are need to be highlighted particularly in the Kenyan media.

## Domestic Violence and Higher Education

Institutions of higher learning are important in imparting key information and building new frontiers of knowledge that shape societies. Such institutions are also pivotal in nurturing experts and professionals who are engaged in critical functions surrounding GBV. As it has been shown, silo approaches in handling GBV are not effective. The faculties of such institutions are crucial in challenging social norms through modelling curricula that precipitate desirable learning outcomes and also trigger interest about the topic.

It clearly is a concern when a societal problem of such gravity lacks proper attention owing to the lack of adequate research, statistics, reports and other informational material that are crucial in crafting proper solutions. There is a lack of studies focusing on the prevalence of gender-based violence during disasters. Consequently, those responding to disasters are often not aware of the possibility of surge in the cases of gender-based violence (John *et al.*, 2020). Poor preparation tends to make the situation worse. In fact, according to John *et al.*, (2020) these are the lessons never learnt.

What then should be the next steps for tertiary institutions, which include colleges, universities and polytechnics? The following recommendations might help to ensure institutions of higher learning are involved in solving the problem of domestic violence:

- Researchers, practitioners, and policymakers need to help inform further evidence generation and policy action while situating domestic violence within the broader need for an intersectional gender- and feminist-informed pandemic response. The dynamics of pandemic outbreaks require effective engagement, coordination and cooperation among a wide range of sectors and actors, including not only public health agencies focused on human and animal health, but also, critically, social and environmental sciences (Peterman *et al.*, 2020).

Researchers and implementers could capitalize on inter-disciplinary expertise, data availability (including ongoing studies and availability of open access administrative data) and funding opportunities to advance the knowledge frontier.

- Tertiary institutions and scholars should frame research agenda addressing important but underplayed issues such as domestic violence. Participatory research methods that emphasize power-sharing in the knowledge creation process are important and should be employed in all of their relevant proposed research. Taking an intersectional approach to research and data collection is critical as well. These findings can help identify the potential policy responses to moderate the issue of domestic violence. This research will help in assessing how big the problem of domestic violence is and as such inform decisions such as where to allocate resources as well as raise awareness on the dynamics presenting themselves during a pandemic. An important part of better understanding dynamics will be grasping how different types of GBV interact with pandemics and what shifts might be experienced, if any, considering pre-pandemic poly-victimization is already faced by vulnerable populations.
- Tertiary curricula could also be tailored to apply, as far as possible, a gender lens into various academic courses and relevant disciplines could encourage more dedicated ethnographic and qualitative work to test specific hypotheses for proposed mechanisms, as well as understand how women, men and children with specific characteristics respond to pandemics.
- Research in tertiary institutions could also involve identifying innovative and effective response options to pandemics. Traditional social science methodologies include experimental randomized control trials to test whether a policy or intervention works. The same may be harder in emergency and pandemic settings especially because of the need for rapid roll out of interventions, as well as ethical considerations around delaying on withholding treatment to the control group, if it is already known that the intervention will result in benefits. They could partner with research organizations to identify ways they can augment existing research programs, grants or open new funding windows to accommodate rapid pivots in research efforts and stimulate further innovation (Peterman, *et al.*, 2020).
- Affirmative action programs could be introduced especially in fields where gender disparities are too evident. In particular, education in fields that would enable women to be engaged more in tele commutable jobs would begin to address the gender imbalance problems shaped by economic exclusion. Still, more doctors worldwide are men. But the vast majority of the global health workforce consists of nurses, community

health workers, and others who are less highly compensated whilst it's evident that less economic vulnerability would mean less domestic violence.

## Conclusion

It is evident from the study that the COVID-19 pandemic presented unique challenges that impacted various aspects of the cycle of domestic violence in Kenya. The outstanding causes of domestic violence were stress occasioned by the pandemic and a weak mental wellness support structure in Kenya, economic distress, social norms that foster misguided views on gender roles, a weak legal environment and certain advancements in technology. An appreciation of such triggers is useful in improving the efforts put in mitigating their potential negative effect on domestic violence. Domestic violence also largely manifested in a physical form due to the restrictions on movements as a measure to contain the pandemic. Audio-visual technology enhanced other types of abuse such as stalking which might not have appeared as a type of abuse to many survivors, bringing to bear the importance of sensitization on abuse. It was clear that reporting domestic violence to the relevant stakeholders was problematic due to shared spaces, an under-resourced state security system, the economic vulnerability of many survivors and a fear of retaliation. The response to the surge in domestic violence cases by the duty bearers was inadequate as safe houses are paramount in dealing with physical abuse cases and the same were unavailable in almost all counties in Kenya. It is important

that the response and intervention be wholistic with flexible funding policies for relevant GBV actors should be allowed to facilitate rapid response in times of uncertainty. Whilst SDG 16 greatly features in the area of GBV, others such as SDG 3, SDG 5 and SDG 8 are closely related to certain targets under SDG 16 such as reduced violence, ensuring responsive, inclusive and representative decision making and ensuring equal access to justice since they focus on good health and well-being, gender equality and economic growth and decent work. More opportunities exist to further probe the topic of domestic violence in institutions of higher learning through more funded research and applying a multi-disciplinary approach in analyzing the topic.

A pandemic heightens and amplifies all existing inequalities which in turn determines who is affected, the severity of the impact and efforts at recovery<sup>10</sup>. Despite its global prevalence, gender-based violence has been one of the most neglected outcomes of pandemics. To achieve a more equal world, pathways to access justice must be broadened through enhancing the rule of law and addressing injustice in both private and public spheres. Increased prioritization of women and girls' health, education, economic opportunity, safety, and decision-making power can help create a world where no one falls through the cracks particularly when global crises emerge.

10. <https://www.unwomen.org/en/digital-library/publications/2020/04/policy-brief-the-impact-of-covid-19-on-women>



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# Bridging the Digital Divide during COVID-19: A Right to Internet Access and the Path Towards Sustainability in Education

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## ABSTRACT

COVID-19 continues to produce reverberating effects in all spheres of public and private lives. This pandemic has exacerbated existing human rights violations, socio-economic inequalities and discrimination. Cognizant of the crises induced and aggravated by COVID-19, this paper specifically focuses on the impact of COVID-19 lockdowns on the right to education. This paper advances a normative argument in favour of recognizing an auxiliary right to internet access as part of the existing right to education in international human rights law. Creating a holistic obligation on states means combining this top-down international recognition with bottom-up domestic entrenchment and enforcement of this right. Therefore, this paper also analyses methods of entrenching a right to internet access in Pakistan, through a comparative study with other countries which have entrenched the right through constitutionalization, legislative enactment, judicial pronouncement and incorporation into public policy frameworks.

This combination of international recognition and domestic enforcement is imperative for a sustainable recovery of the education sector from the pandemic. One target of Sustainable Development Goal 16 is to protect fundamental freedoms. The two-pronged normative argument advanced in this paper attempts to steer the discourse surrounding this goal in relation to internet access rights, specifically in the hitherto largely unexplored context of education. Sustainable Development Goal 16 also seeks to ensure sustainability through non-discrimination. In the context of COVID-19, this mandates equality of internet access for all in education, without which discrimination on the basis of a digital divide would perpetuate.

## KEYWORDS

►► Sustainable Development / Internet Access / Digitalisation / Online Teaching / Education

## Introduction

Globally, lockdowns have consistently accompanied the COVID-19 pandemic since March 2020. These lockdowns have affected businesses, places of employment and recreation, and means of domestic and international transport. Amongst other premises and facilities, these lockdowns have also meant the physical shutdowns of educational institutions. Across the world, classes moved online. However, virtual learning, where available, meant a transition in the mode of educational instruction and not a complete halt to any sort of instruction at all. However, virtual learning is wholly contingent on access to the Internet. Where there is no such access, there has been a long pause in educational instruction. Many countries, especially from the Global South, struggle in their ability to provide Internet access to all areas of the country and all segments of the population. In Pakistan, for example,

the brunt of the impact of COVID-19-lockdowns on education was borne by students from low-income and rural households who lacked access to the internet and by those educational institutions belonging to either the public sector or the low-cost private sector. These students, their institutions and their teachers were the primary subjects of the e-taleem programme of the Ministry of Federal Education of Pakistan, which was launched in the wake of COVID-19. While this television and radio programme was a laudable step taken to address an unprecedented, emergency situation plagued with uncertainties, the underlying rationale behind this paper is to go beyond such short-term reactive measures. Educational instruction must be interactive, not passive. These unilateral, passive forms of information-sharing through television and radio are incomparable to interactive, two-way virtual learning in the long term. The former are no more than interim,

transitory measures which should be directed towards the goal of ensuring virtual learning for all. The effects of inequalities arising from virtual learning are innumerable and reverberating. These effects have reportedly included high drop-out rates (especially for girls), child labour and child marriages (United Nations Educational, Scientific and Cultural Organisation, 2020; United Nations Children's Fund, 2021).

In part I, this paper proposes international recognition of a right to access the internet as part and parcel of the right to education. International recognition provides a universal yardstick for the substantive obligation associated with any particular positive human right. The normative argument presented in part I builds on existing scholarly work on extending human rights protections to the internet, but adapts this work to the novel situation of pandemic-induced educational closures.

While human rights are regulated internationally, when it comes to sovereign nations, they are enforced primarily through a state's own laws and constitution (Liu and Yan, 2016). Therefore, part II of this paper analyses the possible methods of entrenching a right to internet access in Pakistan, through a comparative study with other countries which have already entrenched the right. In this comparative study, judicial decisions, constitutional provisions, statutes and policy documents of the selected countries are analysed. Only countries which have clearly incorporated a right to internet access in their domestic systems through one of these four methods have been selected for analysis.

This paper attempts to steer the debate towards optimum realization of Sustainable Development Goal 16<sup>1</sup> as well as its interdependence on Sustainable Development Goal 4,<sup>2</sup> relating to quality education, especially considering the adverse effect of COVID-19 lockdowns on education systems worldwide. Sustainable Development Goal target 16.b is aimed at promoting and enforcing non-discriminatory laws and policies for sustainable development. Similarly, inclusivity and equity are cornerstones of the goal of quality education in Sustainable Development Goal 4. These elemental pillars cannot be achieved without the foundational basis of internet access during COVID-19. The right to education is toothless, futile and hollow without a guarantee of internet access. Non-discrimination is a common goal of Sustainable Development Goals 16 and 4. Mainstreaming a right to internet access in education can mitigate the inequality and discrimination in education which is caused by the existing digital divide.<sup>3</sup>

## Part I: A normative argument for a right to internet access as an auxiliary right of the right to education

This part proposes a normative argument in favour of recognizing a right to internet access as an auxiliary right of the right to education in international human rights law. A tripartite analysis to foreground this proposal is presented: one, locating a right to internet access within existing international human rights law; two, comparing and contrasting separate righthood and auxiliary righthood for the recognition of a new human right to internet access; and three, delineating the contours of the proposed right to internet access and identifying potential obstacles in the progressive realization of such a right.

### 1.1 Existing international human rights law frameworks protecting the right to Internet access

This section identifies the nature and extent of the entrenchment of a right to internet access in the corpus of international human rights law, either explicitly or impliedly. It identifies both references to a generalized right to internet access and contextualized indications to internet access vis-à-vis the right to education in the interpretative frameworks of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

#### 1.1.1 General Comment No. 13 of the Committee on Economic, Social and Cultural Rights (1999)

This General Comment provides interpretative guidance on article 13 of the International Covenant on Economic, Social and Cultural Rights, which enshrines the right to education for everyone. According to this interpretation, the right to education has four core elements: availability, accessibility, acceptability and adaptability.<sup>4</sup>

The state of education worldwide during COVID-19 lockdowns directly violates most of these elements. The availability of a "functioning educational institution" (including buildings, sanitation, water, teachers and other facilities, such as libraries) is compromised by the very fact of the lockdowns, as physical buildings of education institutions have been shut down as part of public health measures taken to combat COVID-19. The General Comment interprets accessibility as non-discriminatory, physical (including distance learning) and economic accessibility. However, by its very nature, virtual learning during a pandemic is discriminatory and economically inaccessible for innumerable students. It is contingent upon access to

and availability of the Internet. Therefore, virtual learning can never fulfil the accessibility element. Unless there is a resolution of the underlying problem of internet access, accessibility to education during a pandemic will be discriminatory. With regard to the acceptability element, because virtual learning is a transition from traditional modes of in-person educational instruction, there are risks associated with its acceptance as a viable alternative, which are further exacerbated because of low Internet literacy rates amongst developing countries, for example (Kamssu *et al.*, 2004).

The fourth element is adaptability, which is key to ensuring a meaningful right to education during COVID-19. One of the recommendations in the latest policy report of the United Nations Sustainable Development Group (2020) was to “expand the definition of the right to education to include connectivity”. It recommends putting principles of “equity and inclusion” at the centre of all digital learning schemes during the pandemic. While “adaptability” implies changing modes of instruction to keep up with the times, this pandemic has been wholly unprecedented in the gravity of its impact. It has created an impetus not just to carve out innovative solutions to ensure adaptability in the short term but also to radically overhaul entire education systems. Therefore, “adaptability” needs to be broadly construed in the light of these facts to mean the installation of permanent solutions which solve the problem of educational disparity at its roots. “Adaptability” needs to encompass both short-term emergency solutions to pandemic-induced lockdowns as well as longer-term, resilient and sustainable measures to ensure the uncertainty attached to the duration and intensity of COVID-19 is catered for.

It is only through an extended interpretation of the adaptability element, which covers the proposed substance of a right to internet access (see section 1.4), that access to the internet can be a core constituent of the right to education in the International Covenant on Economic, Social and Cultural Rights. Neither the text of article 13 nor this General Comment incorporate any explicit reference to the Internet as a prerequisite for the right to education. However, this interpretative guidance is the only authoritative indication in the corpus of international human rights law which posits a potential right of internet access in the context of the right to education.

### **1.1.2 Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (2011)**

This report was hailed as a declaration by the United Nations affirming that internet access was a human right (Estes, 2011; Kravets, 2011; Jackson, 2011). However, its reception as such is misleading (Szoszkievicz, 2018). The

report did not declare internet access to be a freestanding, independent human right (Pollicino, 2020) and even if it did, it would have had no binding authority (Frosini, 2013).<sup>5</sup>

However, the substance of the report itself is emblematic of how strongly internet access has been and continues to be intertwined with the rights to freedom of expression and opinion. The scope of this report was clearly delineated to be within the conceptual and legal frameworks of the rights to freedom of expression and opinion. Therefore, it is clear at the very outset that the report does not intend to advocate for a separate right to internet access. The report’s prime value lies in the interpretative guidance it provides for article 19 of the International Covenant on Civil and Political Rights. Article 19 protects everyone’s right to hold opinions and freely express themselves. According to the report, the reference to “any other media of his choice” in article 19(2) is broad and flexible enough to encompass within its purview technological developments such as the internet. This interpretation has been widely endorsed by scholarship on article 19 and a right to internet access (Çalı 2020; Land 2013), along with subsequent resolutions of the United Nations Human Rights Council (Human Rights Council, 2012; Human Rights Council, 2016).<sup>6</sup>

The report of the special rapporteur outlined that access to the internet has two dimensions (Penney, 2011). The first imposes a negative obligation and guarantees access to online content without undue, unjustified and disproportionate restrictions by states. The second hints at a positive obligation in terms of the availability of infrastructure and requisite technologies to access the Internet. This second dimension is generalized and not restricted to the specific context of the rights of freedom of opinion and expression. Therefore, this may be an indication of the crystallization of a positive obligation, albeit progressively realizable, on states to ensure that the necessary infrastructure for accessing the internet is made available for everyone.

Moreover, the report also states that the freedom of opinion and expression is not only a freestanding fundamental right but also an “enabler” of other economic, social and cultural rights. Therefore, if the freedom of expression and opinion is guaranteed inclusive of all the means to achieve it (i.e. internet access), an indirect by-product would be a solidification of the implementation of other rights as well, including the right to education, as access to the internet would be ensured, albeit for a different human right. This report is persuasive authority for asserting that the right to internet access is a core constituent of the means to achieving the rights to freedom of expression and opinion. However, by logical and practical corollary, once internet access itself is guaranteed, this access can be used to steer the progressive realization of economic, social and cultural rights such as education.

## 1.2 Relevance of existing frameworks for protection of the right to education during a pandemic

In the context of protecting the right to education during COVID-19, the relevance of international human rights law frameworks and current literature on a right to internet access examined in section 1.1 is limited. This is because of their largely exclusive focus on internet access primarily in connection to civil and political rights such as free speech and expression, and rights to assembly and connection. The stimulus for suggesting a right to internet access in the majority of scholarship is premised on promoting and ensuring the freedom of speech and expression (Tully, 2014; Szoszkiewicz, 2018; Qerimi, 2017; Land, 2013; Lucchi, 2011; Sniadecki, 2014). Education features as a subsidiary right or an unintended by-product, at most, in proposals for a right to internet access. This may be because, among other reasons, the complete inaccessibility of the physical buildings of educational institutions for prolonged uncertain periods was never considered to be a possibility before COVID-19. However, COVID-19 lockdowns have created unique momentum for exploring and understanding the viability of an auxiliary right to internet access as derived specifically from the right to education. Therefore, the following section analyses the relative viability of such an auxiliary right in comparison with a new, independent right to internet access.

## 1.3 Separate righthood versus auxiliary righthood

The preceding section has demonstrated that there is no binding entrenchment of internet access in the existing corpus of international human rights law, whether generalized or specific to education. In light of this gap, this section focuses on how a right to internet access can be recognized through international human rights law. The theoretical strengths and practical feasibilities of separate righthood for internet access as well as auxiliary righthood<sup>7</sup> in the context of the right to education are analysed.

Separate righthood for internet access refers to the proposition that the importance, value and role of the internet are such that they call for the international recognition of a new, independent, freestanding right to the internet. On the other hand, auxiliary righthood<sup>6</sup> posits internet access not as a standalone right but rather, as an attached right of an already existing human right. An auxiliary right has been defined as a secondary human right which has all the protections and restrictions of the primary right it is attached to (Shandler and Canetti, 2019). While the advantages and disadvantages of granting separate righthood to internet access have been the subject of extensive scholarly debate, its potential as an auxiliary right

for education has been barely examined. The following sections further explore the arguments for and against recognizing Internet access as an independent right and an auxiliary right, respectively.

### 1.3.1 Internet access as a separate human right

The theoretical justification for proposing a new right to internet access often highlights gaps in protection under existing human rights and uses these gaps to call for adequate human rights-based protection that corresponds to modern technological developments (Çalı, 2020). Therefore, because the internet is a vital part of modern life, it demands protection and recognition as a human right. If left unprotected, supporters argue that the non-recognition of internet access as a human right would perpetuate and deepen existing inequalities and disparities. On a procedural note, critics have pointed out that even if such a move for recognition were to be accepted, the actual recognition and operationalization of a new human right requires a significant amount of time, international consensus and resources (Szoszkiewicz, 2018). On the substantive aspect, it has been pointed out that deriving a stand-alone right requires a clear demonstration of the right's universal importance, relevance and feasibility (Çalı, 2020).

One commonly advanced argument against the recognition of a right to internet access is that it would impose heavy positive obligations upon governments (Çalı, 2020; Shandler and Canetti, 2019). However, such arguments have been readily and easily rebutted by reference to the less onerous duty of progressive realization of positive rights, as opposed to the stricter obligation of immediate enforceability of negative rights. Positive rights require active governmental steps to be taken towards their realization, but only in accordance with the resources available to a country. It also recognizes that the nature and extent of enforcement of positive rights depends on a multitude of culturally variable factors. If the argument that internet access should not be recognized as a human right because it imposes a significant burden on a state to provide internet access is accepted, it would mean that existing positive human rights, such as health care and education, should also be unrecognized or deprioritized because these also require states to expend resources in their realization.

Others have argued that imposing a duty on governments to provide their citizens with access to the internet may constitute a "disproportionate redirection of already scarce resources" (Çalı, 2020). COVID-19 and its devastating aftershocks are sufficient incentive to counter this argument of disproportionality. COVID-19 has already caused recessions in global economies, with ever-increasing chunks of national budgets being spent on health care and vaccination efforts. However, it is also true that there has

been an international realization of the importance of the internet for education, information, connectivity and even health care (Wheeler, 2020; World Wide Web Foundation, 2020; Jiang and Ryan, 2020; Reimers, 2021). Therefore, spending on the provision of internet access would not be an unnecessary and escapable “redirection” of resources as much as it would be a sustainable investment of a state’s resources for a robust educational recovery from a pandemic. Without adequate interventions by governments to realize the right to education during COVID-19, the learning losses sustained over the past sixteen months are likely to culminate into national education emergencies (Human Rights Watch, 2021). Therefore, deployment of resources, infrastructure, policies and investment at this time to address existing learning losses and prevent future ones is fiscally more sustainable and proportionate than attempting to address and counter a wide-scale, national education emergency in the imminent future.

Critics of a possible right to internet access point to the absence of internet penetration in developing countries as a justification against declaring internet access a human right. However, recognition of a right to internet access is meant to be a starting point in bridging precisely this digital divide between countries. Once entrenched as a human right, it imposes positive obligations on governments to take active measures to realize the right and thereby, contribute towards enhancing internet penetration rates. The status quo, therefore, cannot be used as cogent justification to assert impracticality or infeasibility. Altering the status quo is the long-term aim of guaranteeing such a right in the first place.

### 1.3.2 Internet access as an auxiliary right of the right to education

In weighing the arguments for and against internet access as an auxiliary right of the right to education, it is important to note that some arguments against separate righthood (see subsection 1.3.1) are arguments in favour of auxiliary righthood. For example, the time, level of consensus (Szozkiewicz, 2018) and demonstration of universal importance (Çalı, 2020) required to introduce a new human right are higher than what would be required to read in a new constituent right into an existing, well-recognized and pre-existing human right, such as education. Proponents of auxiliary righthood for internet access argue that because internet access is instrumentally necessary for freedom of expression, for example, it should be protected by virtue of this connection. Therefore, auxiliary righthood seeks to expand the existing scope of a human right and its associated obligations (Çalı, 2020). Because auxiliary righthood does not seek to create space and momentum for a new human right, its theoretical justifications and practical effects are relatively less controversial than those of separate righthood. In expanding the scope of application of

an existing right, auxiliary righthood seeks to provide human rights-based protection in response to new developments and challenges within existing frameworks. Cerf (2012) famously stated that technology is an enabler of rights and not a right in itself. Taking the ethos of this statement forward, it may not be apt to categorize internet access as a new right in and of itself, but it can still be categorized as a secondary “enabler” right for various other primary rights. However, even as an “enabler of rights,” internet access should be recognized as a right, albeit a secondary one.

One of the main theoretical downsides to auxiliary righthood is that complete dependence between internet access and the relevant primary right cannot logically be shown if there is low Internet penetration (Shandler and Canetti, 2019). It has also been pointed out that re-inventing existing human rights in this manner may run the risk of being viewed as “illegitimate international law making” (Çalı, 2020).

Arguments for auxiliary righthood for internet access have been made in the past, but they have always been tied up with the primary rights of freedom of expression and opinion, connection, information and assembly (Skepys, 2012). Furthermore, these arguments have mostly been made to assert negative duties associated with these primary rights. A right to access the internet, however, has never been proposed as an auxiliary right of the positive right to education. The absence of such a proposal is at least partly because the factual urgency for such an argument has been hitherto absent.

During COVID-19 lockdowns, the essence of the right to education has been severely compromised wherever there has been a lack of internet access for learners, teachers and educational institutions. The Internet is instrumentally necessary for education during COVID-19 because it is the closest possible option to the actual physical classroom. Through continuously evolving applications and technologies (e.g. web-conferencing software and online-learning platforms), the physical classroom can be converted seamlessly into a virtual classroom and enable interactive educational instruction even during a pandemic. Investing resources and time in connecting the right to education with a right to internet access is more sustainable than any other non-tech option of ensuring the right to education amidst global emergencies in the modern world. Delays in mobilizing resources to establish the right to internet access will have multifarious trickle-down effects. The lack of access to education will continue to lead to high drop-out rates from schools, an increase in child labour, an increase in rates of child marriages and higher chances of juvenile delinquency, and will continue to increase the numbers, gravity and intensity of various societal menaces as well as adversely impact the mental and physical well-being of students. In addition, the heightened digital divide in education will exacerbate existing inequalities in the pedagogies of

education. For example, standardized examinations across the world will produce highly discriminatory results because a student learning in a virtual classroom is likely to perform better than one learning through pre-recorded television or radio programmes.

Therefore, it is proposed that the international community declare and read in a right to internet access within the framework of the existing human right to education. In the short term, such recognition is not only less controversial but is also more viable as it escapes the thorny questions that arise with the proposition of an altogether new human right. In the long term, recognition as an auxiliary right could be a useful starting point for the crystallization of a separate right of internet access as well. It can be used as a prelude to the latter and a means to garner adequate international consensus for recognition as a freestanding right.

## 1.4 Delineating the contours of an auxiliary right to Internet access

This section critically examines and consolidates the contours of the proposed right to internet access as a derived right of the right to education. While the following analysis is specific to the status of internet access as an auxiliary right, it is also equally applicable and relevant to postulating a separate right of internet access. The following subsections define, prospectively, the substantive content of such a right, the elements it should incorporate and their respective justifications. The challenges associated with a right to internet access are also identified, in addition to foreseeable roadblocks to implementation, specifically for the purpose of providing stimuli for future research in this area. The governing rationale for this subsection is that theoretical clarity and precision are preludes to effective practical enforcement.

### 1.4.1 Substance of a right to Internet access

The proposed right to internet access must contain an affirmative obligation to provide internet access (Tully, 2014), in addition to a negative duty not to deprive people of an Internet connection. The latter duty has crystallized in the existing corpus of international human rights law (Qerimi, 2017), especially in relation to civil and political rights. Therefore, the focus of this subsection is on delineating the substantive content of a positive aspect to this right. This focus is notwithstanding the accepted understanding that a right of internet access will only be substantively holistic if it contains a combination of positive and negative duties on states (Hartmann, 2013; Qerimi, 2017).

On affirmative obligations associated with internet access, it is important that access be enabled through the development of relevant infrastructure (Tully, 2014),

including broadband cables, internet signals, wireless connectivity and access to Internet-enabled devices. Without the relevant infrastructure, a right to Internet access would be ineffective. Therefore, the right's delineation itself should include a positive obligation on governments enshrining a resource commitment towards developing an infrastructure conducive to enabling internet access for its citizens. In implementing such an obligation, it is vital to encourage and provide incentives for private sector participation, which can enable the realization of the internet access right at a better speed. Regulatory mechanisms such as pricing regimes, universal service requirements and licensing agreements can be negotiated with the private sector to this end. In building infrastructure through public-private partnerships (Buan, 2015; Racherla and Mandiwalla, 2013), affordability should be a guiding factor, especially in middle- and low-income countries.

It is also vital to ensure that a right to internet access contains an obligation of non-discrimination on governments. Such an obligation should exist to ensure that special measures are taken to provide internet access for disabled end-users (Tully, 2014) and vulnerable and socially disadvantaged groups (Land, 2013). This obligation is particularly important in the context of education during a pandemic. There are certain groups of global populations, such as female students and students from low-income households, who have faced increased disparity in their access to education because of COVID-19 lockdowns. There is a special need for governments to undertake an obligation to take positive, active measures to protect the basic human rights of the already disadvantaged. This is why positing a right to internet access as an auxiliary right of the right to education must include a non-discrimination clause, which should not be framed solely in terms of a negative obligation but also inculcate a positive duty on governments to take special steps to ensure internet access to these specific groups. Without a goal providing for equality of access, a right to internet access will be rendered of little use to the groups which have suffered the most due to lack of internet access. Here, an analogy can be drawn from scholarly work interpreting article 19(2) of the International Covenant on Civil and Political Rights. It has been pointed out that article 19(2) "provides a basis for an individual right to access specific technologies when no adequate means are available for the individual to achieve his or her communication goals" (Land, 2013). This same reasoning can be extrapolated to the context of education during this pandemic. A recognized right to education should provide a basis for an individual right to access a specific means of education (i.e. the internet) when no adequate means are available for an individual learner (because of physical closures of educational institutions) to achieve their education goals.

Furthermore, governments must take on a responsibility to promote, ensure and advance internet literacy programmes

in progressively realizing this auxiliary right. This is paramount not only for younger students who need to be properly equipped to be able to use the internet for virtual learning, but also students of other age groups and teachers who have historically relied on learning through physical material in classroom settings.

#### 1.4.2 Foreseeable roadblocks in the implementation of a right to Internet access

Securing a right to internet access is one aspect of a larger problem, but it is the first step in the right direction. Social norms will need to evolve and adapt as well. Possible hostile reactions in various communities to internet access should not be underestimated in gauging the efficacy and practicality of such a right, even in the short term. This problem of a “cultural mistrust” (Shoemaker, 2011) can, however, be potentially mitigated through increased community-level awareness campaigns which highlight the benefits derived from internet use, especially in a global pandemic and its aftermath.

Recognizing and enabling a right to internet access as an auxiliary right of the right to education means recognizing and resolving problems of cyber vulnerability. Learners may become victims of cyberbullying or encounter virtual privacy breaches, for example, if they are not adequately sensitized to and trained on safe ways to use the internet for learning. Therefore, internet literacy should be a core component of such a right and safeguard mechanisms such as those proposed by the Internet Rights and Principles Coalition (2014) should be firmly entrenched.<sup>8</sup> The right to digital data protection and freedom from surveillance also have to be accounted for in frameworks implementing the proposed right to internet access for education. Nevertheless, questions of abuse and misuse of the internet are secondary questions for the purposes of this paper because illegal activities on the internet are separately criminalized under various legal systems. Moreover, the prospect of abuse does not hamper the recognition of a positive right to provide internet access in the first place. The potential for abuse can be criminalized, controlled and sanctioned but it should not affect the progressive realization of this positive right.

In common with any other human right, a right to internet access would also, in certain instances, be balanced with other competing rights, claims or concerns, such as privacy, intellectual property and data protection. However, the existence of competing interests or rights cannot in and of itself deprive internet access of its character as a human right. While a fair balance might need to be struck in various individual circumstances, such balancing exercises are part and parcel of international human rights frameworks and machineries.

## Part II: Analysing the methods of domestic entrenchment of a right to internet access

This part analyses four methods of incorporating a right to internet access in national systems, namely, through the constitution, laws, judicial decisions and public policies. This part also explores the prospects of entrenching such a right in Pakistan through each of these methods.

### 2.1 Comparative constitutional protection

This section engages in a comparative study of the constitutional protections of the right to internet access in Greece, Portugal and Ecuador (see **Table 1**). At the time of writing, these are the three countries which have constitutionalized the right to internet access. In particular, the textual framing of the right to internet access is highlighted to analyse the extent to which the right imposes positive and negative duties on the states concerned.

### 2.2 Constitutional protection in Pakistan

The constitution of Pakistan differentiates between “fundamental rights” and “principles of policy”, with the key point of distinction being justiciability. While fundamental rights enshrined in the constitution of Pakistan are justiciable, principles of policy are not. By subjecting fundamental rights to judicial review, the constitution seeks to ensure that these rights cannot be violated at the whims of the legislature and the executive. Therefore, the underlying rationale behind guaranteeing a set of fundamental rights by enshrining them in the constitution is to ensure that these rights are paramount to ordinary law (Karim, 2018).

A right to internet access has not been constitutionalized as a fundamental right or even as a principle of policy in the constitution of Pakistan. Therefore, the question is: can a right to internet access be accommodated within the existing right to education in the constitution? The right to education was granted the status of a fundamental right in the constitution in 2010. Before this, it had existed as a non-justiciable principle of policy enshrined in article 37 of the constitution.

Article 25A of the constitution, inserted in 2010, now imposes a positive obligation on the state to provide free and compulsory education for a specific age group, with the precise manner of implementing this obligation being relegated to the realm of the legislature.<sup>11</sup> Therefore, article 25A is not self-executory. It requires implementation via law promulgated by the provincial governments of Pakistan.

**Table 1. Comparative constitutional protection (Greece, Portugal and Ecuador)**

Country	Constitutional provision	Year added	Title	Content	Scope
Greece <sup>9</sup>	Article 5A	2001	Individual and Social Rights	<ul style="list-style-type: none"> <li>- Placed in context of right to information only</li> <li>- Positive obligation on government to facilitate access to electronic information</li> <li>- Obliges government to facilitate production, diffusion and exchange of information on the Internet</li> </ul>	<ul style="list-style-type: none"> <li>- Relegation to right to information limits scope of application</li> <li>- Right is not unfettered; needs to be balanced with competing rights</li> </ul>
Portugal <sup>10</sup>	Article 35	Constitution of 1976 with amendments in 2005	Use of Information Technology	<ul style="list-style-type: none"> <li>- Citizens guaranteed free access to public-use information technology networks</li> <li>- Right of access to all data concerning an individual</li> </ul>	<ul style="list-style-type: none"> <li>- No positive obligation on state to facilitate citizens' general access to the internet</li> <li>- Access only guaranteed in limited context of public-use information technology networks</li> </ul>
Ecuador	Articles 16 and 17	2008	Information and Communications	<ul style="list-style-type: none"> <li>- Guarantees universal access to information and communication technologies</li> <li>- Guarantees access to free bands for wireless networks under equal conditions</li> <li>- Guarantees access and use of information technology for disabled end-users</li> <li>- Imposes general positive obligation on state to foster diversity in communication</li> </ul>	<ul style="list-style-type: none"> <li>- No explicit reference to the Internet; rather to "technologies"</li> <li>- Relatively broader in scope than Greek and Portuguese provisions</li> </ul>

This is because the subject of education was devolved to the provinces as part of the eighteenth amendment to the constitution.

Because article 25A leaves the precise manner of implementation to the provincial legislatures, there is scant room for reading in a right to internet access as an auxiliary right of the right to education. Had article 25A been drafted so that the phrase "in such manner as may be determined by law" was replaced with the phrase "through all means necessary," a right to internet access could have been read in as one of the necessary means to guarantee the right to education during COVID-19 lockdowns.

Therefore, it would require a rather cumbersome, stretched interpretation to encapsulate internet access within the existing text of article 25A. The next question is: what are the prospects of proposing a sub-article to article 25A which explicitly guarantees internet access to protect the right to education?

The process for amending the constitution is contained in article 239 of the constitution. While a bill to amend the constitution can originate in either house of parliament, it needs a two-thirds majority of the house in which it is introduced to be able to kickstart the legislative process. When transmitted to the other house, it further requires a two-thirds majority to be passed. The requirement of a two-thirds majority in the legislature means that introducing an amendment to the constitution is perhaps not the most achievable short-term goal in the pursuit of guaranteeing a right to internet access for education in Pakistan. Obtaining such a large majority is a time-consuming goal pervaded with problems of political unwillingness.

### 2.3 Comparative legislative protection

This section analyses the right to internet access (see **table 2**) which is enshrined in law in Estonia, Finland (Fossi *et al.*, 2019) and Spain. These countries have been chosen because their legislation clearly enshrines internet access

**Table 2. Comparative legislative protection (Estonia, Finland and Spain)**

Country	Legislation	Content	Scope
<b>Estonia</b> <sup>12</sup>	<ul style="list-style-type: none"> <li>- Public Information Act 2000 (section 33)</li> <li>- Electronic Communications Act 2000 (sections 69 and 70)</li> </ul>	<ul style="list-style-type: none"> <li>- Section 33 guarantees free access to public information in public libraries through the internet for all citizens</li> <li>- Sections 69 and 70 enshrine the internet as a universal service</li> </ul>	<ul style="list-style-type: none"> <li>- The scope of section 33 is limited to the specific context of public libraries</li> <li>- The scope of sections 69 and 70 is wider</li> <li>- Duty bearers of universal service obligation are service providers and operators, not the state</li> </ul>
<b>Finland</b>	Communication Market Act 2003 (as amended in 2009 with section 60c)	<ul style="list-style-type: none"> <li>- Imposes a universal service obligation for functional internet access</li> </ul>	<ul style="list-style-type: none"> <li>- Positive obligation on private telecommunications companies, not the state</li> <li>- Supplemented by Decree of the Ministry of Transport and Communications on the Minimum Rate of Functional Internet Access as a Service, which establishes the minimum bandwidth for a broadband connection to be 1 megabit</li> </ul>
<b>Spain</b>	Sustainable Economy (article 52)	<ul style="list-style-type: none"> <li>- Encompasses broadband connection as integral part of universal service</li> <li>- Stipulates minimum broadband speed of 1 megabit per second</li> </ul>	<ul style="list-style-type: none"> <li>- Government under duty to establish conditions for public network broadband access</li> <li>- Government under duty to update minimum speed stipulation in accordance with time</li> <li>- Specific government departments obliged to guarantee affordability of this universal service</li> </ul>

as a right. While rights related to the internet are enshrined in various other laws around the world, this paper aims to examine whether a right to Internet access itself has been included in law, and to what extent. As is shown in the **table 2**, while these three countries have enshrined the right through law, the content and scope of each law is markedly different, with only the Spanish law imposing positive duties on the government.

## 2.4 Legislative protection in Pakistan

Pakistan does not have a legislatively guaranteed right to access the internet. However, use of the internet itself is regulated by various laws. For example, the Prevention of Electronic Crimes Act 2016 contains a legal framework defining various kinds of electronic crimes and mechanisms for investigation, prosecution and adjudication of these crimes. However, the focus is exclusively on accountability for cybercrimes, rather than providing a right to access cyberspace in the first place. In a similar vein, the Electronic Transaction Ordinance 2002 recognizes and facilitates communications and transactions in electronic form. The Personal Data Protection Bill 2020 envisages a legal regime of newly introduced data protection laws on the internet. However, all of these laws pertain to issues that arise if and when access to the internet is present. Access itself is assumed in the rationale behind the promulgation of aforesaid laws. While these laws definitively have value, worth and relevance in regulating cyberspace, they are

insignificant in putting the state and telecommunications providers under any sort of positive obligation to ensure access to the internet, generally or even for disadvantaged groups.

There is, however, some semblance of a positive duty enshrined in the Pakistan Telecommunications Act 2006. According to section 4 of the Act, the functions of the Pakistan Telecommunications Authority<sup>13</sup> include promoting the interests of telecommunication users, promoting availability of affordable and efficient telecommunication services, and rapidly modernizing the same. While there is no explicit reference to a duty to make internet access available in the context of education, such a duty can be read into the existing generalized statutory functions of the Pakistan Telecommunications Authority.

## 2.5 Comparative judicial protection

This section examines the judicial protection afforded to a right to internet access in a comparative context, using the judgments of the apex courts of France, Costa Rica (Guadamuz, 2010) and India (see **Table 3**). These jurisdictions were chosen because of the clear discussion of a right to internet access in the jurisprudence of their highest courts. These judicial decisions did not pronounce on internet access as a separate right, rather each court read in a right to access the internet as part and parcel of existing fundamental rights, such as that of free speech.

**Table 3. Comparative judicial protection (France, Costa Rica and India)**

Country	Court	Year	Issue	Decision	Scope
France	Constitutional Council	2009	Could an independent body withhold internet access as a sanction for its users?	<ul style="list-style-type: none"> <li>- Fundamental rights of freedom of expression and communication extended to technological developments</li> <li>- Restrictions on internet access by independent bodies were unlawful</li> </ul>	<ul style="list-style-type: none"> <li>- Access to the internet read in to the right to free speech</li> <li>- Internet access not declared an autonomous right</li> </ul>
Costa Rica	Supreme Court	2010	Was the government's delay in opening the telecommunication market to competition a breach of fundamental freedoms?	<ul style="list-style-type: none"> <li>- Access to information communication technologies was a basic instrument for the exercise of many fundamental rights</li> <li>- Exercise of fundamental rights specially affected because of delay in opening telecommunications market</li> </ul>	<ul style="list-style-type: none"> <li>- Explicit recognition of internet access as a facilitator of right to education</li> <li>- Context of decision was specific to telecommunications law</li> </ul>
India	Supreme Court	2020	Legality of Internet shutdowns in Jammu and Kashmir	<ul style="list-style-type: none"> <li>- Government could not suspend internet indefinitely without proving necessity or proportionality of measure</li> <li>- Indefinite suspension of internet violated right to freedom of expression</li> </ul>	<ul style="list-style-type: none"> <li>- Extended right to freedom of expression, trade and commerce to the internet</li> <li>- Did not declare internet access as an autonomous right</li> </ul>

## 2.6 Judicial protection in Pakistan

This section maps the landscape of judicial protection in Pakistan of the right to education explicitly, internet access implicitly and other positive constitutional rights more generally.

A reading of the contents of **Table 4** highlights the non-existence of judicial recognition of a right to internet access in Pakistan. However, the case law examined above does highlight a judicial tendency to broadly construe the right to life, specifically, to encapsulate and protect other emerging rights not formally protected through the constitution. Therefore, there exists scope for such an interpretation of the right to life and the right to education to be extended to a right to internet access were a suitable case to come before the judiciary.

## 2.7 Incorporation into public policy frameworks

The preceding sections engaged in a comparative analysis of means of formal, legal entrenchment of a right to internet access. This section focuses on the means of protection of such a right by its incorporation into public policy frameworks of governmental ministries. Unlike the preceding sections, the list of public policy frameworks that can be examined from a comparative perspective are innumerable

and beyond the scope of this paper. Therefore, this report focuses on only one policy framework: that in place in Kerala, India (Government of Kerala, 2017). This framework was chosen because Kerala is a state within a South Asian country with significant social and cultural similarities to Pakistan and because the framework explicitly makes mention of a right to internet access in human-rights terms.

### 2.7.1 Policy framework in Kerala, India

In 2015, Kerala became the only Indian state to declare internet access as a basic human right. The main objective of this declaration was to provide affordable broadband connectivity of two megabits per second and to establish a "mobile governance" scheme to shift government paperwork to the digital realm (Nidheesh, 2019). Through this policy pronouncement, the government of Kerala aimed to bridge the digital divide by making digital infrastructure accessible to all strata of society at an affordable cost. Another explicit aim of this policy was to reduce discrimination and marginalization of the disadvantaged groups of society (Nidheesh, 2019). To implement this declaration, the government of Kerala introduced a system called the Kerala Fiber Optic Network. According to this system, the infrastructure for internet access would be provided to all households in the state. In addition, it was announced that free internet facility would be provided to 20 million poor families in the state and wi-fi transmission centres

**Table 4. Judicial protection in Pakistan**

Case	Court	Year	Issue	Decision	Scope	Reference to Internet access
<b>Ms. Shehla Zia vs. WAPDA</b>	Supreme Court of Pakistan	1994	Whether the constitutional right to life is infringed by a threat to a healthy life caused by construction of an electricity grid station?	Right to life extended to a right to a healthy living environment	Broad interpretation of "life"- extended to cover all facts of human existence 14	None
<b>Barrister Zafarullah Khan vs. Federation of Pakistan</b>	Supreme Court of Pakistan	2018	Interpretation of right to life	Right to life extended to right to access clean water	Broad interpretation of "life"	None
<b>Ms. Imrana Tiwana vs. Province of Punjab</b>	Lahore High Court	2015	Interpretation of right to life	Right to life extended to right to healthy environment	Broad interpretation of "life"	None
<b>Messrs Getz Pharma (Pvt) Ltd. vs. Federation of Pakistan</b>	High Court of Sindh	2017	Interpretation of rights to life and dignity	Rights to life and dignity extended to right to health	Broad interpretation of "life" to include right to health which was not constitutionally enshrined but was significant to citizens' well-being	None
<b>Fiaqat Hussain vs. Federation of Pakistan</b>	Supreme Court of Pakistan	2012	Interpretation of right to education	State has a positive obligation to provide access to education	Right to education extended to issue of access	None
<b>CM Pak Limited vs. Pakistan Telecommunication Authority</b>	Islamabad High Court	2018	Legality of internet blockage in specific districts because of security concerns	Mobile network shutdowns and mobile-based internet suspension declared illegal	Internet access rights interpreted in terms of a negative obligation on state to not block internet access	Internet access mentioned, but no positive duty to provide internet access declared

at government offices, libraries and public places would be established (Kerala State Electricity Board Limited, 2019). The budget for this system was approved in November 2019 (Babu, 2019). The ethos of the policy pronouncement of the Government of Kerala declaring internet access as a human right was subsequently echoed in a judicial decision. In a 2019 judgment, the High Court of Kerala reaffirmed the status of internet access as a fundamental right.<sup>15</sup> The Court concluded that the right to internet access is part of the constitutionally protected rights to education and privacy in India and therefore, had to be protected.

## 2.7.2 Policy protection in Pakistan

Pakistan has not declared internet access as a human right, neither generally nor in the specific context of the right to education, either before or during COVID-19. However, there are indications in the current and future policy frameworks of Pakistan which prioritize internet access generally and in the context of education. These policy frameworks are examined in this subsection and their scope and sufficiency are analysed (see **Table 5**). In summary, policies related to education and connectivity on

**Table 5. Policy protection in Pakistan**

Policy	Ministry	Year	Commitments	Scope
<b>Digital Pakistan Policy</b>	Ministry of Information Technology and Telecommunications	2018	<ul style="list-style-type: none"> <li>- Ensure availability of accessible, affordable, reliable, universal and high-quality ICT services</li> <li>- Enhance digital inclusion by bridging digital divide for marginalized populations</li> <li>- Promulgate new legislation and policies to enable creation of a sustainable information technology environment</li> <li>- Enumerates general goals to facilitate Ministry of Education including creating opportunities to ensure inclusive and equitable quality ICT education, initiating projects to provide network accessibility at educational institutions and encouraging the development of e-portals for educational purposes.</li> </ul>	<ul style="list-style-type: none"> <li>- No specific commitment to provide internet access for education</li> <li>- No legislation passed mandating internet access for learners and teachers</li> <li>- Goals for Ministry of Education include no focused commitment to internet access in education; they only extend to enhancing quality of education, not access to education via the internet</li> </ul>
<b>Draft National Broadband Policy</b>	Ministry of Information Technology and Telecommunications	2021	<ul style="list-style-type: none"> <li>- Centred around inclusivity and accessibility, usability and market enablement, digital trust, and transformation and evolution</li> <li>- Ensure that people have access to high-speed internet by 2025</li> <li>- Ensure that every Internet user owns at least one internet-enabled device</li> </ul>	<ul style="list-style-type: none"> <li>- Ambitious scope</li> <li>- Clear goal of bridging digital divide on basis of universal service</li> <li>- Policy needs to adapt to fast-track resource allocation for provision of broadband infrastructure to education sector during COVID-19</li> </ul>
<b>COVID-19 Responsive Annual Plan</b>	Ministry of Planning, Development and Special Initiatives	2020-21	<ul style="list-style-type: none"> <li>- Lays down policies for the recovery of specific sectors from the impact of COVID-19, including education</li> <li>- Focuses on improvement in access to education and introduction of uniform education system</li> <li>- Development of remote-learning courses and alternative-learning models for hard-to-reach areas</li> </ul>	<ul style="list-style-type: none"> <li>- No commitment to solve problem of lack of internet access in education</li> <li>- All education-related interventions operate on assumption that internet access is readily available for all</li> </ul>
<b>Report on COVID-19 and Human Rights</b>	Ministry of Human Rights	2020	<ul style="list-style-type: none"> <li>- Highlights inequalities exacerbated by COVID-19 because of different educational learning platforms</li> <li>- Recommends tracking progress of remote learning, training teachers in hybrid models, providing special support to poor households for remote learning, and exploring private-public partnerships to bridge digital divide</li> </ul>	<ul style="list-style-type: none"> <li>- Recommendations are a step in the right direction</li> <li>- Commendably recognizes need to bridge digital divide in education</li> <li>- Internet access not linked to right to education in human-rights terms or sustainability of recovery from COVID-19</li> </ul>

the federal level fall short of addressing and resolving the acute and foundational problem of lack of internet access for learners. The majority of these policy commitments are premised on the flawed assumption that the digital divide is either non-existent or insignificant.

## Conclusion

Bridging the digital divide in education is key to ensuring a sustainable and resilient recovery of the education sector from COVID-19. Sustainable Development Goals 4 and 16 focus on inclusivity, non-discrimination and sustainability, which need to be built into institutional systems at the

national and global levels. In the context of education during COVID-19, this institutional reform necessarily translates to ensuring a lack of disparity in internet access for learners, teachers and educational institutions. This paper has proposed that a non-discriminatory and inclusive future pathway for education should be premised on the guarantee of a human right to internet access. This larger goal, in turn, should be realized at both the international level, through formal recognition of internet access as an auxiliary right of the right to education, and at the domestic level, through constitutionalization, legislative enactment, judicial protection and, at the very least, a strengthened policy commitment.

This paper has used a comparative approach to discern the nature and extent of domestic protection of the right to internet access, as a prelude to proposing potential protection of the right to internet access in Pakistan. On the domestic front, it is concluded that an optimum level of protection in the long run is afforded through a combination of constitutional and legislative entrenchment, which empowers citizens with a right to access the internet specifically for education, and holds the government

accountable for inaction in the provision of such a positive right. The best way forward in the short term would be to expand existing policy commitments in education and the digital realm in Pakistan. Even if optimum remote-learning courses and materials are developed, they are futile where there is no access to the internet. Therefore, existing policy commitments need to specifically cater to solving the problem of lack of internet access. Without the resolution of this foundational issue, the outlined interventions, even if implemented optimally, will continue to exist in a vacuum and will not be able to benefit all learners during this pandemic.

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## Notes

1. The target of Sustainable Development Goal 16 is to promote just, peaceful and inclusive societies.
2. The goal of Sustainable Development Goal 4 is to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.
3. The term "digital divide" has been defined as the gap between different individuals and entities in terms of their access to information and communication technologies for different purposes. The global digital divide refers to the disparity in access to these technologies between developed, underdeveloped and developing countries. On a national level, this term is often used to denote the difference in access to these technologies among the various socio-economic strata within a country on the basis of gender, income, class, geographic location and literacy, among other factors. On the gender digital divide in Pakistan, see for example the Media Matters for Democracy and Association for Progressive Communication study entitled *Women Disconnected: Feminist Case Studies on the Gender Digital Divide Amidst COVID-19* (January 2021).
4. Availability refers to the presence of functioning education institutions and programmes in sufficient quantity. Accessibility is defined as non-discriminatory access to these available institutions and programmes. Acceptability means that the form and substance of education must be acceptable to students and parents. Adaptability is a reference to the flexibility of education so that it can adapt to changing societal and student needs.
5. Reports produced by United Nations special rapporteurs have only persuasive value in international human rights law.
6. Article 19 of the Universal Declaration on Human Rights protects the same right to freedom of expression and opinion. It uses the same language of "through any media" and is therefore, considered to also fit the internet within its scope. Moreover, the protection of the right of expression and opinion in regional instruments such as the European Convention on Human Rights (article 10) and the American Convention on Human Rights (article 13) are also commonly understood to be inclusive of the protection of internet access as a means to achieving this substantive right.
7. Auxiliary righthood has also been referred to interchangeably as "derived righthood" or "implied righthood".
8. This Charter has been drafted by the Internet Rights and Principles Dynamic Coalition which works to solidify the protection of human rights online and is based at the United Nations Internet Governance Forum. It lays down 10 rights and principles for human rights on the internet. These include principles of universality and equality, rights and social justice, accessibility, expression and association, privacy and data protection, life, liberty and security, diversity, network equality, standards and regulations, and governance.
9. Article 5A of the Constitution of Greece reads: "1. All persons are entitled to information, as specified by law. Restrictions to this right may be imposed by law only insofar as they are absolutely necessary and justified for reasons of national security, of combating crime or of protecting rights and interests of third parties. 2. All persons are entitled to participate in the Information Society. Facilitation of access to electronically handled information, as well as of the production,

- exchange and diffusion thereof constitutes an obligation of the State, always in observance of the guarantees of articles 9, 9A and 19.”
10. Article 35(6) of the Constitution of Portugal reads: “Everyone is guaranteed free access to public-use information technology networks. The law shall define the regime governing cross-border data flows, and the appropriate means for protecting both personal data and other data whose safeguarding is justified in the national interest.”
  11. Article 25A reads: “The state shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.”
  12. Section 33 of the Public Information Act 2000 of Estonia reads as: “Access to data communication network: Every person shall be afforded the opportunity to have free access to public information through the Internet in public libraries, pursuant to the procedure provided for in the Public Libraries Act.” Section 70(3) of the Electronic Communications Act 2000 covers the internet as a public universal service.
  13. The Pakistan Telecommunication Authority is the telecommunication regulator of Pakistan.
  14. In paragraph 12 of the judgment, the Court interpreted “life” as: “The word life is very significant as it covers all facts of human existence. The word life has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally.”
  15. On the facts of this case, in a women’s hostel in Kerala, students were prohibited from using mobile phones for certain hours of the day. According to the petitioner, this restriction infringed on a number of rights of female hostel inmates, including gender discrimination (the restriction only extended to the women’s hostel). There were claims made regarding the violation of the petitioners’ right to acquire knowledge through the internet, to exercise her constitutionally protected right of freedom of speech and expression and privacy, and that the restriction impaired the quality of access to education for female students.



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# How Changing Economic Inequality Impacts Homicide Trends: A Longitudinal Analysis across 126 Countries, 1990-2017

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## ABSTRACT

Inequality is an increasingly worrying issue impacting many countries globally. From a violence standpoint, income inequality is very consequential, being one of the strongest predictors of the differences in homicide rates between countries. Researchers have theorized that inequality can lead to homicide because individuals are led by society to desire the status or wealth of others, but society itself blocks them from achieving this. Homicide is one mechanism for coping with the ensuing frustration. The current study uses data from 126 countries to explore the association between inequality and homicide trends, and compares several regression models to demonstrate that while inequality is a very strong predictor of the difference in homicide rates *between countries*, inequality does not predict longitudinal changes in homicide rates within countries over time. Specifically, *within-country* changes in inequality have been too small to produce a notable impact on homicide trends.

## Introduction

Over the past decades, several countries have been experiencing a concerning increase in their levels of inequality (Bosmans, 2014; Bourguignon and Morrisson, 2002; Piketty, 2015). The proportion of income concentrated within the top 1% of wealth holders worldwide increased from 16% in 1980 to 20% in 2020, even though economic growth has lifted millions from poverty in populous countries such as India and China (Alvaredo *et al.*, 2018). An example is the United States, where the median income has been nearly stagnant since the 1980s, while the income of the highest 1% earners increased by 226% (Stone *et al.*, 2020).

From the standpoint of homicide rates, increasing levels of inequality can be remarkably consequential. Studies typically find that income inequality is positively associated with homicide rates, with this being one of the strongest and most consistent predictors of differences in homicide between countries (Nivette, 2011). To explain

Moreover, much of the cross-sectional effect of inequality on homicides is transferred to economic development when predicting longitudinal change in homicide over time. Such longitudinal effects of development, however, can be attributed to a similar mechanism underlying the cross-sectional effect of inequality, as individuals compare their present economic circumstance with themselves in the past, which alleviates (or aggravates) frustration. The article ends by discussing the interdependence between the Sustainable Development Goals and by elaborating how reducing inequalities (SDG 10) is key for promoting a peaceful and inclusive society (SDG 16).

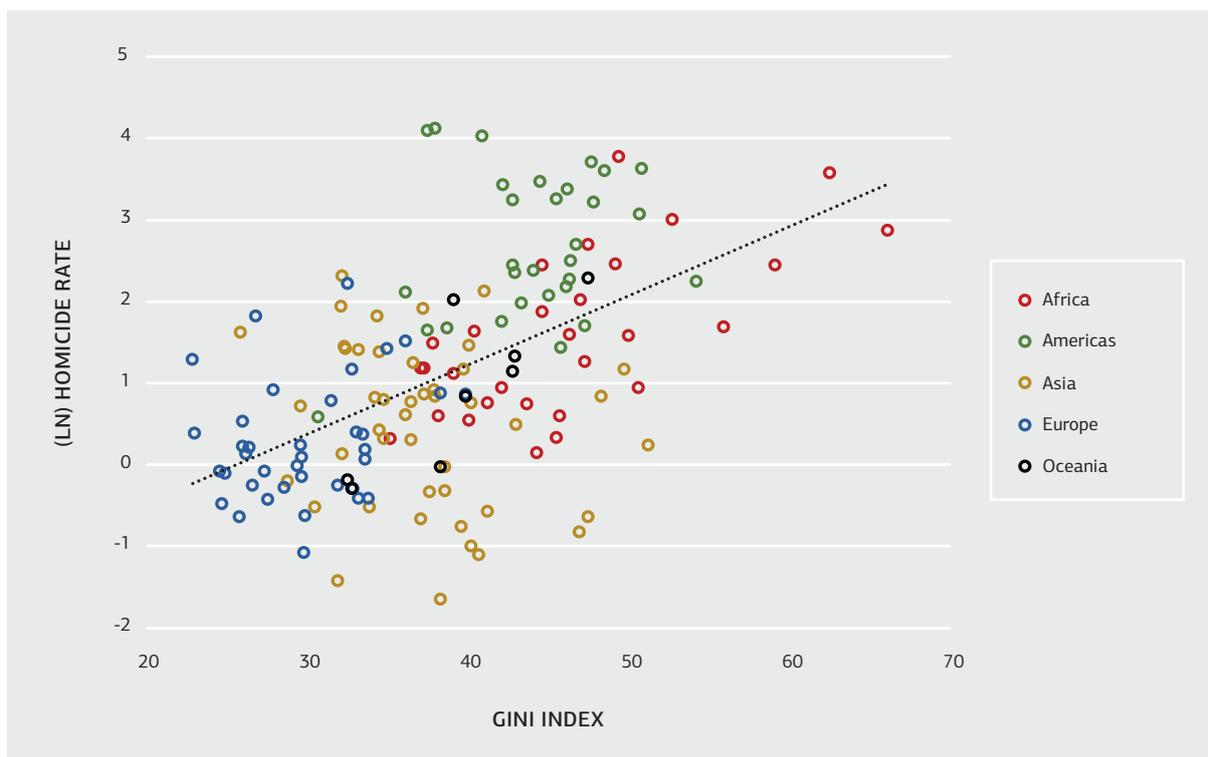
## KEYWORDS

»» Homicide Trends / Global Inequality / Cross-National Criminology / International Criminology / Sustainable Development Goals

this association, researchers such as the sociologist Robert Merton (1938) for a long time have suggested that individuals are prone to compare their current socio-economic circumstance with that of others within the same society. Individuals in unequal societies have limited opportunities to achieve the success of others, leading to frustration with their social status, and strain. Homicide is one possible strategy for coping with this strain, particularly when it is the product of pre-determined social injustices against which individuals feel powerless (Agnew, 2001).

**Figure 1** is a scatterplot of the (natural log) of the homicide rate against the Gini Index—a measure of economic inequality. Data on the homicide rate is from the United Nations on Drugs and Crime (UNODC, 2019). Data on inequality is from the Standardized World Income Inequality Database (Solt, 2020). Each dot corresponds to a country.

**Figure 1** shows a bivariate relationship between country-level inequality and homicide rates, such that each one-



**Figure 1. Scatter Plot of the (Ln) Homicide Rate & Gini Index ( $\rho = 0.539$ ;  $N = 149$ )**

unit increase in the Gini Index (ranging from 19 to 67) is associated with an average increase of 8.6% in the homicide rate ( $\rho = 0.588$ ), which is a very strong association. The figure shows that the countries with the lowest homicide rates also tend to have low levels of inequality, while countries with high homicide rates tend to be the most unequal.

Systematic reviews of the cross-national literature on homicide rates always emphasize the extent to which income inequality is a consistent predictor of the cross-sectional difference in homicide rates between countries in the world (LaFree, 1999; Nivette, 2011; Koeppl et al., 2015.; Trent and Pridemore, 2012). However, studies using longitudinal data over many years typically find only a weak to null association between changes in inequality over time and changes in homicide rates. This contrast between findings of cross-sectional with that of longitudinal research is highlighted by a landmark study by Messner, Raffalovich, and Shrock (2002), which notes:

*“The general pattern of null effects for the Gini coefficient in the panel regressions could reflect that fact that income inequality tends to be relatively stable over the short run, and thus five-year intervals might be too short to detect sufficient changes in inequality to predict changes in homicide rates [...] The more developed nations*

*are disproportionately represented in the longitudinal analyses, and these are the nations with the most advanced social welfare systems, that is, nations for which the criminogenic effects of income inequality are likely to be mitigated [...] In any event, these analyses imply that claims for a longitudinal effect of income inequality on homicide rates must be regarded cautiously”* (p. 393).

Hence, while income inequality is a key predictor of the differences in homicide rates between countries, inequality does not predict changes in homicides within countries over time. To date, no research has attempted to conciliate this contradiction. The present study extends from Messner and colleagues (2002) in contrasting the cross-sectional with the longitudinal association between inequality and homicide rates, while also using high-quality data on income inequality, and a diverse analytic sample of 126 countries and 27 years from 1990 to 2017 (listed in Appendix A).

This article explores the interdependence between the Sustainable Development Goals (SDGs) by investigating how reducing inequalities (SDG 10) can be impactful for promoting a peaceful and inclusive society (SDG 16). This article begins with a description of the main theoretical explanation linking country-level inequality with homicide rates. Subsequently, I elaborate on how the present study contributes to the current literature investigating the

association between inequality and homicide rates. I then describe the details of the data and the quantitative methods used to elaborate the analysis—which mainly consists of a series of regression models using a measure of income inequality and other variables to predict homicide rates. Findings confirm that inequality is a strong predictor of the differences in homicide rates between countries. However, I show that within-country changes in inequality have been too small to have a notable impact on homicide trends. Hence, countries have not made sufficient progress in reducing economic inequalities to allow researchers to clearly observe the consequences of reducing inequities for homicide trends.

## Relative Deprivation and Homicides

Relative deprivation is one of the most popular concepts in social research and has inspired developments in numerous theories (Walker and Smith, 2002). The current study borrows from this literature in defining relative deprivation as “a judgment that one or one’s intergroup is disadvantaged compared to a relevant referent, and that this judgment invokes feelings of anger, resentment, and entitlement” (Smith and Pettigrew, 2015, 2). For instance, individuals are relatively deprived when they desire something that others possess, and when that desire becomes a source of strain.

One theory used to explain the relationship between inequality and crime rates relies on this concept of relative deprivation. In macro-level criminology, this concept is often linked to Merton’s *Strain Theory* (1938). This theory explains that individuals within a social structure tend to share a similar set of goals which are culturally defined. For instance, in the United States there is a universal goal of material success, such that individuals are culturally incentivized to accumulate economic wealth, which is held as a prominent measure of success (Messner and Rosenfeld, 2013). However, while the desire for such goals is universal, there is great inequality in the distribution of opportunities for individuals to achieve success. For example, some are born to a wealthy family, while some are granted a clear path to wealth through education. Others, however, are never afforded the opportunities to escape poverty. Thus, even though all individuals in a society are pressured into desiring similar goals of success, many are blocked from the opportunities to achieve these goals. This contradiction between goals and opportunities tends to be perceived as unfair and becomes a major source of negative emotionality (Agnew, 1992).

Many societies place a much greater emphasis on the goal of achieving success, than on the legality or the morality of the means that individuals should employ to achieve this. Such societies celebrate the wealthy and famous, but overlook how these individuals acquired their wealth and

fame. In such cases, relatively deprived individuals will be even more incentivized to commit crimes as a mean to achieve success (Merton, 1938). In addition, anger and frustration increase the probability that individuals will behave aggressively, as violence is one mechanism individuals use to cope with strain (Chamlin and Cochran, 2006; LaFree, 1999).

In short, crime—including homicide—is one strategy individuals can employ to game a system which they feel is stacked against them. Specifically, strained individuals may ask: why follow the rules if they are implemented to oppress me? Why should I pay my taxes, when so many wealthier than me avoid them? Why am I condemned to never achieving my goals, simply because of the circumstances of my birth?

Strain theory is frequently tested using measures of economic inequality between individuals in a country, such as the Gini Index (Nivette, 2011; Rogers and Pridemore, 2020). In short, the Gini Index varies from a hypothetical zero of perfect equality in income among individuals, to a hypothetical limit of 100 reflecting maximum concentration in income. Strain theory predicts that the higher levels of inequality will increase the prevalence and intensity of relative deprivation within a society, which will result in higher levels of homicide (LaFree, 1999; Koepfel et al., 2015).

However, while the inequality in income between individuals is a major source of relative deprivation within a society, other possible sources of relative deprivation also exist. Relative deprivation refers to an individual’s deprivation relative to a reference. That reference, however, can be defined very broadly. An individual, for instance, can be relatively deprived while possessing extraordinary riches, so long as that individual feels entitled to even more riches. Most importantly, individuals can also feel relatively deprived *against themselves over time* (Smith et al., 2012). That is, individuals consider their social condition not only relative to others in their same society, but also relative to themselves in the past. That would be the case, for instance, of a gambler losing a substantial amount of money overnight. Even if that individual is still remarkably rich in comparison to others in that society, that experience of sudden impoverishment will be the cause of relative deprivation.

Hence, relative deprivation also operates over time in a longitudinal dimension (for example, see Davies, 1962; Gurr, 1970). Social change, particularly when such change is sudden and perceived to be negative (e.g., economic depression, a pandemic, or a war), can be a major source of relative deprivation and strain (de la Sablonnière et al., 2009). In contrast, social improvements such as positive economic development can also reduce relative deprivation and alleviate strain (Zagorski et al., 2010).

When considered longitudinally, however, it is possible that changes in relative deprivation are unrelated to the level of income inequality in a society, as an individual's social and economic circumstances can remain unchanged relative to other individuals in society, all the while their life prospects are improving overtime. Consequently, researchers measuring the longitudinal association between inequality and homicide trends may be unable to find a relationship not because relative deprivation itself is irrelevant, but because changing inequality is not necessarily the main driver of longitudinal changes in relative deprivation.

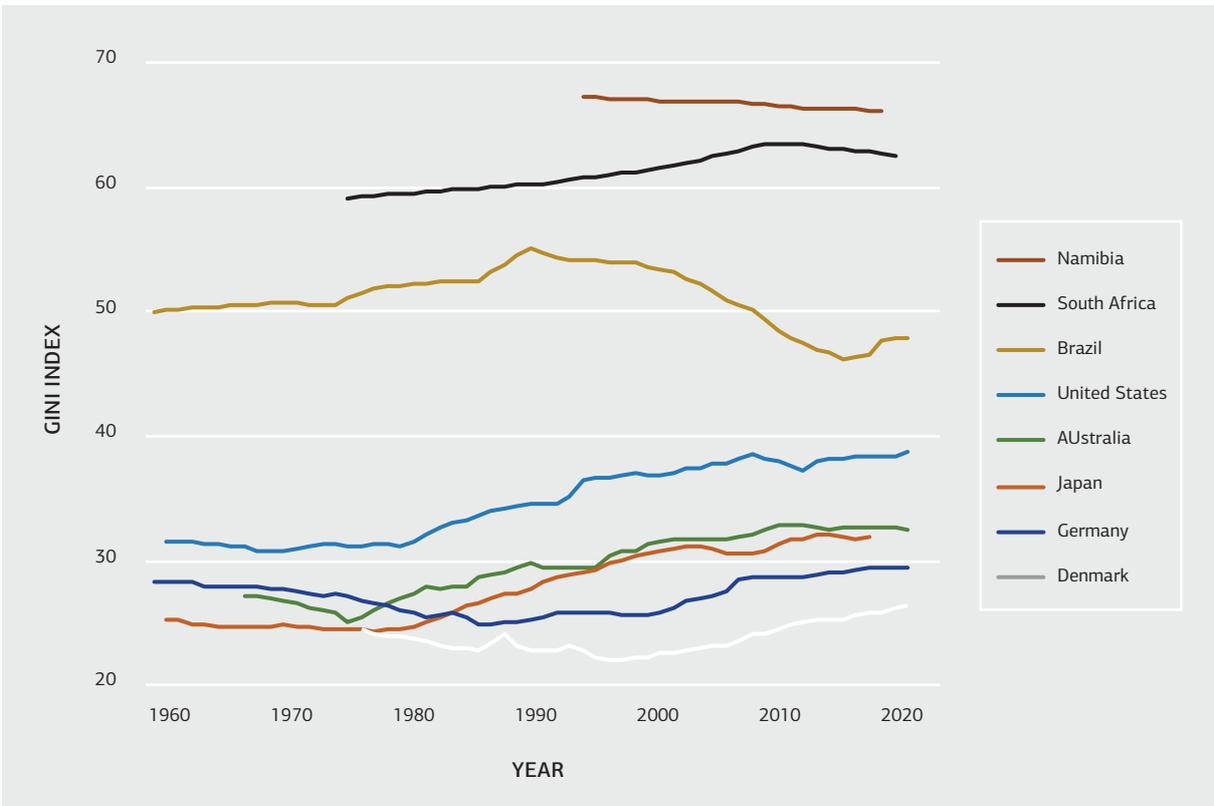
**Contributions of the Current Study**

**Figure 2** is a diagnostic of the longitudinal variability in the Gini Index. The plot displays long-term trends in income inequality, beginning in 1960, for eight countries around the world. Each line corresponds to a different country.

First, consider the scope of this plot, which covers 59 years between 1960 and 2018. During this entire period, the Gini of each of the eight countries in the plot has remained within a 10-point range, out of a 50-point scale. The countries of Namibia (Africa) and Denmark (Europe) were

intentionally selected to illustrate the highest and lowest Gini Indexes in the data, and all countries in-between reflect large nations from each of the worlds' regions. Note that the rank ordering of countries in the plot has been nearly constant over the entire period, as countries almost did not shift positions. Finally, all developed democracies in the plot (United States, Australia, Japan, Germany, and Denmark) display remarkably similar trends, with a stagnant to decreasing pattern until the 1980s, when income inequality begins a gradual increase which continues to present (Alvaredo *et al.*, 2018). This increase in inequality has been linked to policies which purposefully benefited the wealthy (i.e., lower taxation on profits), under the premise that their wealth would "trickle-down" across the entire economy (Piketty, 2015; Watkins, 2014). Other explanations include the global aging of populations, which is increasing demand for financial assets held by the rich (e.g., stocks) and allowing more time for the accumulation of wealth, and technological innovation, which reduces demand for some lower income jobs (Chen *et al.*, 2018).

Overall, **Figure 2** shows that income inequality tends to be relatively stable, even over extended periods of time. That longitudinal stability, however, is in direct contrast with the high cross-sectional variability in the Gini Index between



**Figure 2. Country's Trends in the Gini Index - 1960 to 2018**

countries. For example, within any given year, the Gini Index of Namibia is more than 40 points greater than the Gini Index of Denmark, a difference that has remained almost the same for nearly six decades. This stability in the Gini Index within countries suggests that (1) inequality is so ingrained in the social structure of a country that it becomes very difficult to change, and (2) countries' governments have not implemented policy interventions that have substantially changed the level of inequality of their populations.

This contrast between the cross-sectional variability and the longitudinal stability of the Gini Index also has important methodological implications for quantitative social research. The rich cross-sectional variability in the Gini Index implies that income inequality is associated with differences in other social indicators between countries, such as homicide rates. In contrast, longitudinal change in the Gini Index is much more homogeneous. For analytical purposes, the cross-sectional level of inequality and the longitudinal change in inequality represent two distinct variables, each with their own scale and distribution – even though both reflect two dimensions of the same underlying concept of inequality. Without variation in the longitudinal change in the Gini Index, researchers should find it challenging to identify co-variation with the change in the homicide rate. To be clear, this is a methodological issue in estimating the association between changing inequality and changes in homicide rates, which does not necessarily speak about the actual association between these two variables. Changing inequality could still predict homicide trends, but a typical regression model would be unable to identify this impact simply because the data does not contain enough variation in this predictor (i.e., change in inequality) to identify co-variation in an outcome (e.g., change in homicide rate). This would be analogous to estimating the effect of an additional day of education on individual's predicted income. One would fail to find an association not because education is unrelated to income, but because a day is too little.

The present research expands from the literature reviewed and from **Figure 2** to investigate two main research questions:

1. Is income inequality a predictor of the difference in homicide rates between countries?
2. Is longitudinal change in income inequality a predictor of changes in homicide rates?

## Data and Methods

This study's analytic sample is an unbalanced longitudinal dataset of about 126 countries, spanning 27 years between 1990 and 2017. This sample corresponds to all countries and years with available data. Appendix A provides a list of countries in the analytic sample with summary statistics

by country. All measures were collected from renowned agencies within the United Nations System.

## Dependent Variable – Homicide Rate

Homicide data are collected from the United Nations Office on Drugs and Crime (UNODC). The office's data are the product of a multi-staged process of data collection (UNODC, 2019). First, country officials are surveyed regarding their crime and criminal justice statistics. At this stage, a paramount concern is that reported statistics are both valid and comparable cross-nationally. For this reason, country officials receive training in developing statistics that complies with an International Classification of Crime for Statistical Purposes (ICCS). This classification defines standardized definitions which are independent of the particularities of the legal systems of individual countries (Bisogno *et al.*, 2015). The ICCS defines a homicide count as any "unlawful death inflicted upon a person with the intent to cause death or serious injury." Hence, this definition includes only deaths of a person by another which are intentional and illegal. Excluded are suicides, accidental killings, or legal killings.

In a second stage, the UNODC conducts a broad search of homicide counts from external sources, including governmental agencies, other international organizations, and NGOs. These data are used to validate and complement data submitted by each country in the first stage (UNODC, 2019).

Of all crime statistics collected by the UNODC, homicide is considered the most valid and comparable (Lauritsen *et al.*, 2016). The reasons are that homicide (1) is condemned in virtually all countries, (2) has a clear and objective definition, (3) produces objectively verifiable evidence (i.e., a body), (4) has a relatively stable trend over time, and (5) is recorded across multiple data systems. Typically, every homicide is both a crime and a death. Consequently, each event produces two independent records, one by law enforcement when classifying the crime and another by the public health system when documenting the death. While the UNODC collects data on the former, data on the latter is compiled by the World Health Organization Mortality Database (WHO-MB). Hence, homicide counts from each of these two sources can be used to validate each other. In fact, research using newer versions of either the UNODC or the WHO data tends to find similar results, in part because both international agencies use each other's data to verify their own counts (Andersson and Kazemian, 2018; Santos and Testa, 2018; UNODC, 2019).

Homicide rates were logged to address the positive skew of the variable, to improve model fit, and to reduce the

influence of extreme observations on the estimates. In addition, all data corresponds to actual homicide counts and do not include any estimates generated using predictors, which would be inappropriate for regression analysis (Kanis *et al.*, 2017).

## Independent Variables – Gini Index and GDP per Capita

This study uses two main independent variables. The first is a *Gini Index* for disposable income obtained from the Standardized World Income Inequality Database (SWIID). The SWIID currently publishes the most comparable and complete cross-national data on income inequality over time (Solt, 2020). In the present study, the Gini index reflects the inequality in the distribution in income within each country.

The second independent variable is the Gross Domestic Product per Capita (*GDP per Capita*). The measure is a ratio between the total value of goods produced and services provided in a country in a year, divided by the population of that country. To be clear, the GDP per Capita is not a measure of poverty (i.e., absolute deprivation), but instead reflects the aggregate wealth of a population (Pridemore, 2008). To ensure comparability and to account for variations in inflation, all values are in constant 2010 United States' Dollars. Data on the GDP were developed by the World Bank. Total population counts are from the 2019 Revision of World Population Prospects (WPP) developed by the United Nations Population Division (UNPD).

## Control Variables

Models also account for a set of homicide predictors typically used in the cross-national literature. The selection of controls was guided by earlier research and was limited to variables with data available for as many countries and years as possible, such to preserve the representativeness of the sample. Features of macro-level homicide analysis, such as the high correlation between indicators of development, the high explained variance of level models, and the use of fixed effects, minimize the risk of bias from omitted variables (Allison, 1999).

The *Percent Youth* measures the proportion of a country's population which is between 15 to 29 years of age, relative to the total population. As most violent crimes are committed by youth and as countries with an older population are more stable, an increase in percent youth should be positively related to homicide rates (Santos *et al.*, 2019). The *Percent Male* is the proportion of males relative to the total population. Both variables were collected from the World Population Prospects. Data on *Percent Urban* is from the 2018 Revision of the World Urbanization Prospects,

also by the UNPD, and reflects the percent of the population residing in urban areas, relative to the total. Finally, a *Polity Score* is an index developed by the Polity IV Project (Marshall *et al.*, 2019) which classifies countries' political systems between a fully institutionalized autocracy (-10) to a fully institutionalized democracy (10).

## Analytic Strategy – Regression Models

The main purpose of the analytical strategy is to compare the cross-sectional against the longitudinal associations between the independent variables and homicide rates. To this end, I developed three parallel sets of models. Each set utilized a similar sample of observations, and the same exact control variables to increase the comparability of estimates across models.

The first set contains Polled Cross-Sectional Ordinary Least Squares (OLS) models regressing the natural log of the homicide rate on the independent variables. This set is referred to as the Level models, and estimate the extent to which the Gini Index, GDP per capita, and the controls are associated with difference in the level of homicides between countries.

The second set is a copy of the first set but includes *Fixed Effects* for each individual country. The use of fixed effects is one of the most common analytical strategies for analyzing longitudinal data (Allison, 2009; Wooldridge, 2002). In short, the fixed effects model accounts for differences in the predicted values between groups. In the present case, yearly observations are aggregated within countries. By controlling for the level of homicide for each country, coefficients in the fixed effects model represents the association of each independent variable with mean-deviations of the dependent variable. There is a longitudinal dimension to fixed effects' coefficients, in that they evaluate the predicted change from a country's mean over time. In addition, the fixed effects prevent any coefficients from being biased by characteristics of each country which are time-stable, even if such characteristics are not included in the model as controls.

Finally, a third set of models are the *Change* models, which predict the yearly change in the (logged) homicide rate from yearly changes in each independent and control variable. All variables in the change models were modified to reflect the absolute change between the value of the current year minus the value of the previous year observation in each country. In other words, each variable was subtracted from its one-year lag and correspond to the product of that subtraction.

Because *change* and *level* are different variables, with different scales, all coefficients were standardized within a z-score scale, where zero represents the variable's mean,

and each unit correspond to one standard deviation from that variable's mean. By placing all coefficients in the same scale, the standardization ensures that coefficients in each variable and model are comparable. All standard errors were clustered to address for the dependency of the residual of observations within each country.

The Variance Inflation Factors (VIFs) of all models are below 3.5, and findings are not sensitive to the inclusion of any single control, suggesting no substantial problems with multicollinearity. Finally, because I do not attempt to make statistical inferences outside the scope of countries and years included in the data (see Appendix A for a list), all estimated associations (i.e., coefficients) are treated as parameters, instead of estimates of such parameters (Wasserstein and Lazar, 2016). The p-values for statistical significance ( $p$ ) are included for reference, but the interpretations of the results emphasize the actual magnitude and precision of coefficients.

## Results

**Table 1** contains the descriptive statistics for the analytic sample. The untransformed homicide rate has a mean of 8.27 per 100,000 population, but within a very wide range from 0.13 (Cyprus in 1991) to 141.72 (El Salvador in 1995). As expected, the scale of the natural log of the homicide rate is much more compressed, ranging from -2.06 to 4.95. The yearly change in the homicide rate has a mean of almost zero (-0.08), and ranges from -30.53 to 42.94 homicides per 100,000 population. Again, the natural log compresses the scale of the change in homicide rates, which now has a mean of -0.02 and varies from -1.77 to 1.93. Among the independent variables, the Gini Index has a mean of 37.27, and ranges from 19.5 to 67.10, and GDP per capita varies between 0.23 thousand dollars to 91.37, with a mean of 15.62. On average, 24.48% of country's populations are between ages 15 and 29 (i.e., youth), 49.36% of are males, and 60.77% reside in urban areas. Finally, the Polity Score ranges from -10 (e.g., Qatar in 2013) to 10 (e.g., New Zealand, Japan, Canada), and has a mean of 5.94.

**Table 2** displays results of the first of the three types of models. These pooled cross-sectional models identify predictors of the difference in homicide between countries, estimating the association between each independent variable on the (logged) homicide rate while keeping all other variables constant. Coefficients across all models are standardized in a z-score scale, making them directly comparable. Model 1 shows that a one standard deviation increase in the Gini Index is associated with 0.608 ( $p < 0.01$ ) standard deviations increase in the logged homicide rate, which represents a strong and positive association. Note that each standard deviation in the logged homicide rate represents 3.46 homicides per 100,000 population ( $e^{1.24}$ ).

Model 2 shows that the GDP per capita has a similarly large, but negative bivariate association with homicide rates, at a magnitude of -0.553 ( $p < 0.01$ ). Model 3 simultaneously controls for both the Gini and for the GDP, showing that while both variable's coefficients decline in magnitude (to 0.439 and -0.326 respectively), both remain strong and significant ( $p < 0.01$ ). Finally, Model 4 adds all other independent variables. Again, coefficients for both the Gini Index ( $\beta = 0.405$ ) and for the GDP per capita ( $\beta = -0.255$ ) remain similarly sizable ( $p < 0.01$ ), such that countries with lower levels of the Gini Index and higher levels of GDP per capita have the lowest predicted levels of homicide. In fact, of all the independent variables in the model, the Gini Index has the strongest association with the homicide rate, followed by the percent youth, also with a positive association ( $\beta = 0.300$ ;  $p < 0.01$ ), the percent male ( $\beta = -0.287$ ;  $p < 0.01$ ), the GDP per capita, and the percent urban ( $\beta = 0.198$ ;  $p < 0.01$ ). The polity score has almost no association with homicide rates ( $\beta = 0.080$ ;  $p > 0.10$ ). Finally, an interesting element of these models are the very high values for the coefficients of determination ( $R^2$ ), suggesting that the independent variables in Model 4 explain 54% of the total variation in the (logged) homicide rate, which is a very high proportion.

**Table 3** replicates the models of **Table 2** but includes fixed effects by country. As noted in the analytical strategy, coefficients in the fixed effects model reflect the average variation in the dependent relative to each country's longitudinal trend and are not biased by unobserved time stable characteristics of each country. Model 1 shows a sizable bivariate association between inequality and homicide, such that each standard deviation increase in the Gini index is associated with a -260 ( $p < 0.05$ ) standard deviation decline in the logged homicide rate. Note that this bivariate association suggests that higher inequality decreases homicide rates. Conversely, the GDP per capita displays an even stronger bivariate association in Model 2, at -0.503 ( $p < 0.01$ ). However, when both variables are included simultaneously in Model 3, the coefficient for the Gini index declines by 35% to -0.169 ( $p > 0.10$ ), while the coefficient for GDP per capita maintains most of its magnitude ( $\beta = -0.479$ ;  $p < 0.01$ ). When all other controls are included in Model 4, the coefficient for the Gini Index remains small ( $\beta = 0.157$ ;  $p > 0.10$ ). In contrast, the GDP per capita displays the strongest association in the model, such that each one standard deviation increase in the variable is associated with a 0.378 ( $p < 0.01$ ) standard deviation decline in the homicide rate. From other independent variables, only percent youth also display a sizable association with homicide rate ( $\beta = 0.112$ ;  $p < 0.05$ ). Hence, countries tend to have fewer homicides when their overall wealth increase, and when their youth population declines.

Finally, **Table 4** presents the pooled cross-sectional model of the yearly change in the (logged) homicide rate, regressed

**Table 1. Descriptive Statistics**

Variable at Level	Countries	Obs.	Mean	Std. Dev.	Min	Max
<b>Dependent Variables</b>						
Homicide Rate	126	2,398	8.27	13.56	0.13	141.72
Ln Male Homicide Rate	126	2,398	1.30	1.24	-2.06	4.95
<b>Dependent Variables</b>						
Gini Index	126	2,398	37.27	8.96	19.50	67.10
GDP Per Capita (\$1k)	126	2,398	15.62	18.60	0.23	91.37
<b>Controls</b>						
Percent Youth Population (15 to 29)	126	2,398	24.48	4.06	14.75	34.93
Percent Male Population	126	2,398	49.36	2.04	45.64	76.71
Percent Urban Population	126	2,398	60.77	20.78	8.85	100.00
Polity Score	126	2,398	5.94	5.46	-10.00	10.00

Variable at Level	Countries	Obs.	Mean	Std. Dev.	Min	Max
<b>Dependent Variables</b>						
Homicide Rate	126	2,218	-0.08	2.64	-30.53	42.94
Ln Male Homicide Rate	126	2,218	-0.02	0.21	-1.77	1.93
<b>Independent Variables</b>						
Gini Index	126	2,218	0.02	0.34	-1.50	3.20
GDP Per Capita (\$1k)	126	2,218	0.28	0.70	-4.24	13.00
<b>Controls</b>						
Percent Youth Population (15 to 29)	126	2,218	-0.10	0.32	-1.56	5.15
Percent Male Population	126	2,218	0.00	0.11	-0.36	2.51
Percent Urban Population	126	2,218	0.28	0.35	-0.56	1.66
Polity Score	126	2,218	0.05	1.18	-14.00	15.00

on the yearly change of each independent variable. This model is more directly comparable to the cross-sectional models in **Table 1** because estimates in both tables do not account for time-stable characteristics of each country. However, estimates reflect covariation in yearly change, as opposed to the level of the variables in the models. One interesting feature of the models is the value of the coefficients of determination ( $R^2$ ). Recall that the coefficients of determination of the *Level* models in **Table 2** were between 0.306 (Model 2) and 0.540 (Model 4). In contrast, in the *Change* models in **Table 4**, coefficients of determination vary between 0.0001 (Model 1) and 0.008. These statistics suggest that while the variables account for a large proportion of the between-country variation in homicide rates, yearly changes in such variables are not particularly good predictors of the yearly changes in homicide rates.

Again, all variables and coefficients are standardized in a z-score scale. Model 1 shows that even in a bivariate model the change in the Gini Index has just a small and unclear association with changes in the homicide rate ( $\beta = 0.0104$ ;  $p > 0.10$ ). In fact, the coefficient for the Gini remains about as low in multivariate Models 3 and 4 ( $\beta = 0.0107$ ;  $p > 0.10$ ). In contrast, even though the bivariate coefficient for GDP per capita in Model 2 is relatively small, it is significant and has a magnitude about 6 times greater than the Gini at  $-0.0617$  ( $p < 0.01$ ). Furthermore, the GDP per Capita has the strongest and most clear association with yearly changes in the homicide rate amongst all independent variables in Model 4 ( $\beta = -0.0561$ ;  $p < 0.05$ ).

In short, the Gini Index has a very strong and positive cross-sectional association with homicide level. However, the Gini

**Table 2. Pooled Cross-Sectional OLS Model of the Natural Log of the Homicide Rate**

Standardized Variables	Model 1	Model 2	Model 3	Model 4
Gini Index	0.608*** (0.0603)		0.439*** (0.0692)	0.405*** (0.0671)
GDP Per Capita (\$1k)		-0.553*** (0.0633)	-0.326*** (0.0670)	-0.255*** (0.0637)
Percent Youth				0.300*** (0.0735)
Percent Male				-0.287*** (0.0987)
Percent Urban				0.198*** (0.0727)
Polity Score				0.080 (0.0745)
Constant	-2.2E-10 (0.0707)	3.4E-10 (0.0778)	-2.4E-11 (0.0661)	1.3E-09 (0.0587)
Observations	2,398	2,398	2,398	2,398
Countries	126	126	126	126
R2	0.369	0.306	0.447	0.540
Country FE	No	No	No	No

Note: \*\*\* p<.001; \*\* p<.05; \* p<.10 (two-tailed). Clustered standard errors by country are in parenthesis. Dependent and independent variables are standardized.

**Table 3. Fixed Effects Model of the Natural Log of the Homicide Rate**

Standardized Variables	Model 1	Model 2	Model 3	Model 4
Gini Index	-0.260** (0.105)		-0.169 (0.105)	-0.157 (0.106)
GDP Per Capita (\$1k)		-0.503*** (0.132)	-0.479*** (0.131)	-0.347** (0.148)
Percent Youth				0.112** (0.0498)
Percent Male				-0.0691 (0.0557)
Percent Urban				-0.00296 (0.159)
Polity Score				-0.0704* (0.0390)
Constant	4.0E-10*** (5.8E-11)	3.3E-10 (0.0054)	4.4E-10*** (3.2E-11)	-6.1E-10 (6.4E-10)
Observations	2,398	2,398	2,398	2,398
Countries	126	126	126	126
R2	0.023	0.117	0.127	0.150
Country FE	Yes	Yes	Yes	Yes

Note: \*\*\* p<.001; \*\* p<.05; \* p<.10 (two-tailed). Clustered standard errors by country are in parenthesis. Variables are standardized.

**Table 4. Pooled Cross-Sectional OLS Model of the Change in the Natural Log of the Homicide Rate on the Change in each Independent Variable**

Standardized Variables (Change in)	Model 1	Model 2	Model 3	Model 4
Gini Index	0.0104 (0.0150)		0.00872 (0.0150)	0.0107 (0.0154)
GDP Per Capita (\$1k)		-0.0617*** (0.0227)	-0.0615*** (0.0227)	-0.0561** (0.0223)
Percent Youth				0.0458 (0.0353)
Percent Male				-0.0303 (0.0206)
Percent Urban				0.0205 (0.0157)
Polity Score				0.0364 (0.0278)
Constant	-3.2E-10 (0.0143)	-3.6E-10 (0.0143)	-3.4E-10 (0.0144)	-4.0E-10 (0.0143)
Observations	2,218	2,218	2,218	2,218
Countries	126	126	126	126
R2	0.0001	0.004	0.004	0.008
Country FE	No	No	No	No

Note: \*\*\* p<.001; \*\* p<.05; \* p<.10 (two-tailed). Clustered standard errors by country are in parenthesis. All variables reflect the absolute difference from the previous year's value (lag 1). Variables are standardized.

does not predict longitudinal change in homicide rates. In contrast, the GDP per capita retains a consistent, negative association with both level and change in homicide rates over time, regardless of the analytical strategy.

## Discussion

Out of only 17 Sustainable Development Goals listed by the United Nations (<https://sdgs.un.org>), one specifically seeks to “reduce inequality within and among countries” (SDG 10). That emphasis reflects an understanding that inequality is a major problem, reflecting a sense of unfairness that in the same world many are deprived of everything, while some can have almost anything in abundance. However, despite this global emphasis, inequality remains a growing problem in many countries around the world. In addition, not only is inequality a problem in its own right, it is also a driver of other social issues afflicting populations worldwide. One of such issues is homicidal violence (Nivette, 2011). In fact, peace is also such a major concern for populations globally, and the lack thereof is still such a serious problem, that peace too is part of another Sustainable Development Goal, which seeks to “promote peaceful and inclusive societies for sustainable development, [and to] provide access to justice for all” (SDG 16).

Already by their very definition, SDGs 10 and 16 are closely related, as an inclusive society where all have access to peace and to justice requires some amount of equality. After all, those who must endure the most serious consequences of violence, and who lack access to justice, are often part of the most marginalized segments of countries’ populations (Brems and Adekoya, 2010; Parker and Pruitt, 2000). In addition, social research frequently shows that inequality is a major factor in explaining the cross-national difference in homicides between countries (Avison and Loring, 1986; Nivette, 2011). However, while inequality is a key predictor of the cross-sectional difference in homicide rates between countries, studies using data over time often find that changing income inequality is unable to account for longitudinal changes in homicide trends over time (Messner *et al.*, 2002). That is, while income inequality is a predictor of which countries have more or fewer homicides in a given year, changes in inequality are not predictive of changes in homicide rates within countries over time.

The present study investigated this contradiction between the cross-sectional and the longitudinal association between income inequality and homicide rates. To this end, I used novel data across 126 countries and 27 years from 1990 and 2017 – a larger and more diverse sample than typically used by extant research. However, despite this increased

sample, findings of individual analytic strategies are consistent with those of most extant research.

First, results show that income inequality, measured as the Gini Index, is a major predictor of the difference in homicide rates between countries, as more unequal countries also tend to have higher homicide rates. In fact, from all measures used in this study, the Gini Index has the strongest cross-sectional association with homicide rates. However, in direct contrast to this strong cross-sectional association, the Gini Index displays no clear relationship with change in homicide rates over time. In fact, in the model predicting change, the Gini Index is the variable with the weakest association with changes in homicide rates of all variables included in the model.

I propose two explanations for these findings. A first explanation is strictly empirical. As shown in **Figure 2**, countries' levels of income inequality have remained remarkably stable even when considering a long period of time since 1960. Regression models may not be able to estimate the covariance between changing inequality and homicide trends simply because the data does not contain enough change in inequality to observe its impact. Hence, while there is great variability in the Gini Index between countries, which is predictive of homicide level, the lack of longitudinal change in the Gini Index prevents researchers from observing the possible consequences of change in inequality. To be clear, I argue that this finding—that changing inequality does not predict changes in homicide trends—*does not* warrant the conclusion that changing inequality would be inconsequential to homicide trends. Instead, this finding suggests that societies are simply changing inequality too little, and too slowly to observe any clear effects. At a global level, inequality levels have been remarkably inertial for the past several decades (**see Figure 2**). Very few countries have displayed any sustainable declines in inequality levels since 1960, while several nations, including developed democracies, have been experiencing gradual increases in their levels of inequality. Such increases, however, have been slow.

The second explanation for the lack of a longitudinal association between inequality and homicide trends is theoretical. According to Strain Theory (Agnew, 2001; Chamlin and Cochran, 2006), a key theoretical concept which explains the association between inequality and homicide is relative deprivation. In short, individuals are relatively deprived when they believe they are disadvantaged relative to other groups in their society, and when these individuals feel anger and resentment because of these disadvantages (Smith and Pettigrew, 2015). Strain Theory posits inequality as a cause of relative deprivation because individuals are encouraged by society to achieve certain goals, such as financial wealth, but society does not offer many individuals with a clear path to legally achieve these goals (Merton,

1938). Within this perspective, crime, including homicide, is one innovation that some individuals employ to cope with the negative emotions they feel because of relative deprivations.

Essentially, Strain Theory is cross-sectional in its conception. The theory mainly speaks about the effects of disparities in opportunities between individuals in a society, all of whom have goals based on their shared definitions of success. However, inequality between individuals is just one of many possible sources of relative deprivation. Indeed, research on the concept of relative deprivation makes it clear that individuals can also feel relatively deprived against themselves in the past (Davies, 1962; Gurr, 1970; Smith and Pettigrew, 2015).

This article elaborates on two possible reasons why economic inequality is not the main driver of longitudinal changes in relative deprivation within countries over time. First, because inequality levels tend to change very little over time (**see Figure 2**). Second, because individuals might retain their social position relative to others in their society, all the while society as a whole is worsening or improving itself economically over time.

For instance, consider the current study's findings about Gross Domestic Product per capita, which is an aggregated measure of a country's wealth. The models show that GDP per capita is a strong predictor of homicide level, while also being the most prominent predictor of homicide deviations in the fixed effects model, and of yearly change in the homicide rate. Across all three models, per capita GDP displayed a strong negative association with homicide rates. Interestingly, in a longitudinal dimension, one mechanism linking GDP per capita and homicide rates could be the impact of economic development on relative deprivation. Indeed, the feeling of economic loss can be a major source of strain for societies that grew accustomed to a certain standard of life. A society undergoing a negative change, such as decline in its overall wealth, will likely contrast its present circumstance with the idyllic view of a better past, causing relative deprivation and strain (for an example, see de la Sablonniere *et al.*, 2009). Conversely, positive economic growth can alleviate strain. Indeed, recent research shows that while economic considerations are not the only consideration for the life satisfaction in countries around the world, GDP per capita is one of the major drivers of such satisfaction, and wealthier countries also tend to be the happiest (Ortiz-Ospina and Roser, 2017; Helliwell *et al.*, 2020).

The nuances of the association between economic development and relative deprivation are outside the scope of the present study. That investigation would require more space, and different data. Nonetheless, the strong longitudinal association found between GDP per capita and homicide trends in the current study is an indication that

research ought to more closely investigate the link between economic development, relative deprivation and homicide trends. In addition, this finding suggests a focus on economic development could also serve as a strategy to curtail levels of homicide. To be sure, economic growth is already an emphasis of governments globally and of the United Nations, manifested in SDG 8 which seeks to “promote sustainable, inclusive and sustainable economic growth.” Findings of the present study simply suggest that such emphasis on economic growth in well-placed, and that it could also carry benefits in terms of lower levels of homicide.

## Conclusion

While income inequality is a key predictor of the differences in homicide rates between countries, longitudinal changes in inequality within countries have been so small that it is difficult to clearly observe the consequences such changes would have on social indicators such as homicide rates. One key implication of this conclusion is that, overall, societies could be much more proactive in addressing their issues with inequality. For instance, governments can support policies strengthening the labor market, streamlining the link between education and labor, subsidizing higher education and internships for young adults, subsidizing educational credit, enforcing dignifying minimum wages, and through adequate taxation (Alvaredo *et al.*, 2018; Powell, 2014; United Nations, 2020). Generally, strategies for addressing inequality fall into two broader groups. The first are direct transfers of income from the wealthiest to others in society. That would be the case of taxation systems with strong progression for the rich to support public spending in areas such as health and education, or a universal basic income (UBI) which would ensure a minimum income to all. The second group are policies expanding employment, which incentivize more equitable wages across occupations, and more equitable access to financial services, such as credit and investment. There is evidence that both groups of strategies hold promise for addressing inequality, though much research is still necessary to understand their efficacy, as well as their implications for the broader economy (De Wispelaere and Stirton, 2004; United Nations, 2020; Welch, 1999).

Foremost, governments worldwide should remain cognizant of the benefits of economic development, and of the extent that all individuals are afforded adequate opportunities to realistically achieve their goals. By providing all individuals with feasible means to develop themselves economically through life, societies would alleviate much unnecessary strain, promoting more fulfilling lives, peace, and a clearer path towards sustainable development.

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# Appendix

## Appendix A. List of Countries, Years, and Variable's Means in the Analytic Sample

Country	Homicide	Gini	GDP	Country	Homicide	Gini	GDP
<b>Africa</b>				<b>Americas</b>			
Algeria	0.99	35.68	4.32	Argentina	6.56	41.40	9.51
Angola	4.60	49.75	3.66	Bolivia	8.48	46.10	2.03
Botswana	15.04	58.26	5.88	Brazil	23.63	50.82	9.68
Burkina Faso	0.69	43.83	0.62	Canada	1.90	30.59	42.12
Burundi	4.57	38.83	0.24	Chile	3.45	47.15	13.01
Cameroon	4.44	44.99	1.26	Colombia	51.91	51.59	5.71
Egypt	1.06	41.03	2.12	Costa Rica	7.73	44.55	7.00
Eswatini	14.91	57.72	3.65	Dominican Rep	17.80	46.23	4.56
Ghana	1.92	43.10	1.29	Ecuador	13.04	46.80	4.40
Kenya	4.17	46.54	0.95	El Salvador	75.10	43.39	2.89
Lesotho	36.92	51.22	1.00	Guatemala	34.46	49.02	2.62
Liberia	3.71	37.40	0.52	Haiti	7.05	54.10	0.69
Malawi	4.12	46.37	0.42	Honduras	48.25	49.97	1.78
Mauritius	2.61	37.87	6.46	Jamaica	40.13	41.85	4.78
Morocco	1.35	41.12	2.35	Mexico	15.63	47.07	9.05
Mozambique	4.67	45.68	0.40	Nicaragua	12.58	46.80	1.37
Namibia	19.20	66.75	4.48	Panama	11.69	49.58	6.85
Niger	4.64	38.05	0.48	Paraguay	14.58	48.72	4.09
Rwanda	2.88	51.08	0.63	Peru	7.00	45.49	5.94
Sierra Leone	2.21	41.05	0.39	Trinidad & Tobago	17.08	42.20	11.79
South Africa	42.63	62.41	6.70	United States	6.29	37.29	45.20
Sudan	4.91	40.70	1.77	Uruguay	6.74	39.50	10.22
Tanzania	7.78	43.67	0.68	Venezuela	34.25	41.07	12.85
Tunisia	2.56	40.13	3.83				
Uganda	9.72	44.68	0.72				
Zambia	7.22	54.91	1.25				
Zimbabwe	10.26	47.53	1.13				

Country	Homicide	Gini	GDP
<b>Oceania</b>			
Australia	1.51	31.58	46.46
New Zealand	1.25	32.28	31.07
Papua New Guinea	8.56	47.79	1.68

## Appendix

Country	Homicide	Gini	GDP	Country	Homicide	Gini	GDP
<b>Asia</b>				<b>Europe</b>			
Afghanistan	7.73	32.10	0.57	Albania	7.58	38.76	3.30
Armenia	3.33	37.16	2.40	Austria	0.84	27.17	42.30
Azerbaijan	3.75	30.46	2.32	Belarus	7.36	23.74	4.00
Bahrain	0.52	47.50	22.40	Belgium	1.80	25.82	40.40
Bangladesh	2.72	34.44	0.74	Bulgaria	3.24	32.95	5.56
Cambodia	3.46	36.76	0.58	Croatia	1.70	28.36	12.57
China	1.41	40.57	3.49	Czechia	1.25	25.05	17.60
Cyprus	0.99	30.05	19.96	Denmark	1.04	23.74	55.19
Georgia	7.19	37.31	2.05	Estonia	8.85	33.36	13.17
India	4.32	45.63	1.00	Finland	2.37	24.35	40.99
Indonesia	0.64	44.61	3.06	France	1.72	28.83	39.53
Iran	2.75	39.48	5.93	Germany	1.19	27.46	39.44
Iraq	9.04	32.38	5.08	Greece	1.26	33.31	23.60
Israel	2.46	34.77	28.77	Hungary	2.16	27.30	11.87
Japan	0.48	30.64	42.51	Ireland	1.02	31.41	44.93
Jordan	2.11	37.71	3.15	Italy	1.40	33.00	34.78
Kazakhstan	11.87	28.09	6.71	Latvia	6.53	34.10	10.38
Kuwait	0.98	36.80	41.51	Lithuania	8.55	33.34	10.66
Kyrgyzstan	8.63	34.18	0.80	Moldova	7.38	37.06	1.41
Lebanon	3.38	36.86	7.31	Netherlands	1.02	25.93	46.11
Malaysia	2.15	42.31	7.31	North Macedonia	1.95	33.67	4.18
Mongolia	9.42	34.50	2.93	Norway	0.85	24.75	81.26
Myanmar	2.23	34.09	1.18	Poland	1.57	29.40	9.93
Nepal	2.97	38.46	0.48	Portugal	1.21	33.61	20.71
Pakistan	6.73	34.29	0.92	Romania	2.41	29.88	6.74
Philippines	9.07	41.79	1.93	Russia	21.60	35.39	8.60
Qatar	0.50	40.09	64.97	Serbia	1.47	33.83	4.75
Saudi Arabia	1.05	51.10	19.19	Slovakia	1.87	24.42	13.63
Singapore	0.76	38.73	38.66	Slovenia	1.22	23.97	20.20
South Korea	0.74	31.00	18.01	Spain	1.03	31.66	28.02
Sri Lanka	6.52	47.07	2.47	Sweden	1.05	24.59	46.98
Tajikistan	5.52	40.57	0.59	Switzerland	0.97	29.36	69.78
Thailand	7.02	42.80	4.16	Ukraine	7.20	28.27	2.57
Timor-Leste	3.95	33.76	0.67	United Kingdom	1.35	33.75	36.46
Turkey	4.58	41.09	10.29				
Turkmenistan	6.61	31.50	2.47				
Uzbekistan	4.67	32.05	0.97				
Viet Nam	1.34	34.60	1.08				
Yemen	4.72	36.99	1.20				

# II.

## ENVIRONMENT, LEGAL FRAMEWORKS AND SDG 16

# Strengthening Teacher Education for the Promotion of Ecological Social Justice in Mauritius

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## ABSTRACT

Since the adoption of the 17 Sustainable Development Goals, Mauritius has started to develop and implement innovative approaches to achieve them. Higher education and academia in Mauritius have an important role to play in educating future generations, who will eventually become leaders in various sectors. They will benefit from a better understanding of the global Goals. Goal 16 promotes peaceful and inclusive societies for sustainable development and the Education for Justice (E4J) initiative promotes holistic education as part of its aim to strengthen the rule of law, including through the combating of crimes against the environment, which links directly to Goals 4, 13, 14 and 15. This paper presents ways in which the Mauritius Institute of Education is contributing to achieving Goal 16, in connection with the aforementioned Goals, through teaching, research and curriculum development. The strategic placement of the Mauritius Institute of Education in the local landscape gives it a unique position to innovate and to extend understanding of the holistic and universal interconnectedness of the Goals and their ethical dimension in terms of what we refer to as ecological social justice. Through ecological social justice we move beyond an anthropocentric conception of peace and justice towards recognition of the intrinsic and inextricable connection between society, in terms of communities and cultures, and the environment. The paper uses three case studies:

(a) ecolinguistics-related research projects focused on the promotion of ecological social justice, critical thinking and interdisciplinarity (ecolinguistics studies the role of language in sustaining relations between humans and nature) (Stibbe, 2015); (b) curriculum development activities for primary level that address socio-cultural and ecological issues; and (c) teacher-education practices that incorporate module content and activities encouraging peaceful living and awareness of crimes against the environment, and advocates a broader vision of peace and inclusivity that is sensitive to local realities. Through these three case studies, an emphasis is put on how the Mauritius teacher-education context must strengthen education as it is the responsibility of the Institute to shape and nurture generations of teachers who will, in turn, influence society at large through how and what they teach children in schools. This is particularly important because Mauritius is one of the most ecologically devastated countries on earth, directly due to human activities (Florens, 2013), and because the Mauritius Institute of Education has a strategic impact on non-discriminatory policies relating to education for sustainable development.

## KEY WORDS

» Sustainable education / Ecolinguistics / Social justice / Teacher education / Mauritius

## Introduction

Sustainable Development Goal 16 promotes peaceful and inclusive societies for sustainable development, and the Education for Justice (E4J) initiative promote holistic education to combat crimes against the environment, which directly links to Goal 4 (quality education) and Goals 13, 14 and 15 (climate action, life below water and life

on land). This paper present ways in which a tertiary-level teacher-education institution, the Mauritius Institute of Education, is contributing to the above Goals through innovative approaches in research, teaching and curriculum development. The strategic placement of the Mauritius Institute of Education in the local landscape gives it a unique position to innovate and extend understanding of the holistic

and universal interconnectedness of the Goals and their ethical dimension in terms of what we refer to as ecological social justice. Through ecological social justice, we move beyond an anthropocentric conception of the Goals (Stibbe, 2021), in terms of peace and justice, towards recognition of the intrinsic and inextricable connection between society, in terms of communities and cultures, and the environment. Ecological social justice is understood as access to information and justice issues in relation to the protection of fundamental freedoms, which forms part of Goal 16 targets 16.7, 16.10 and 16.b.

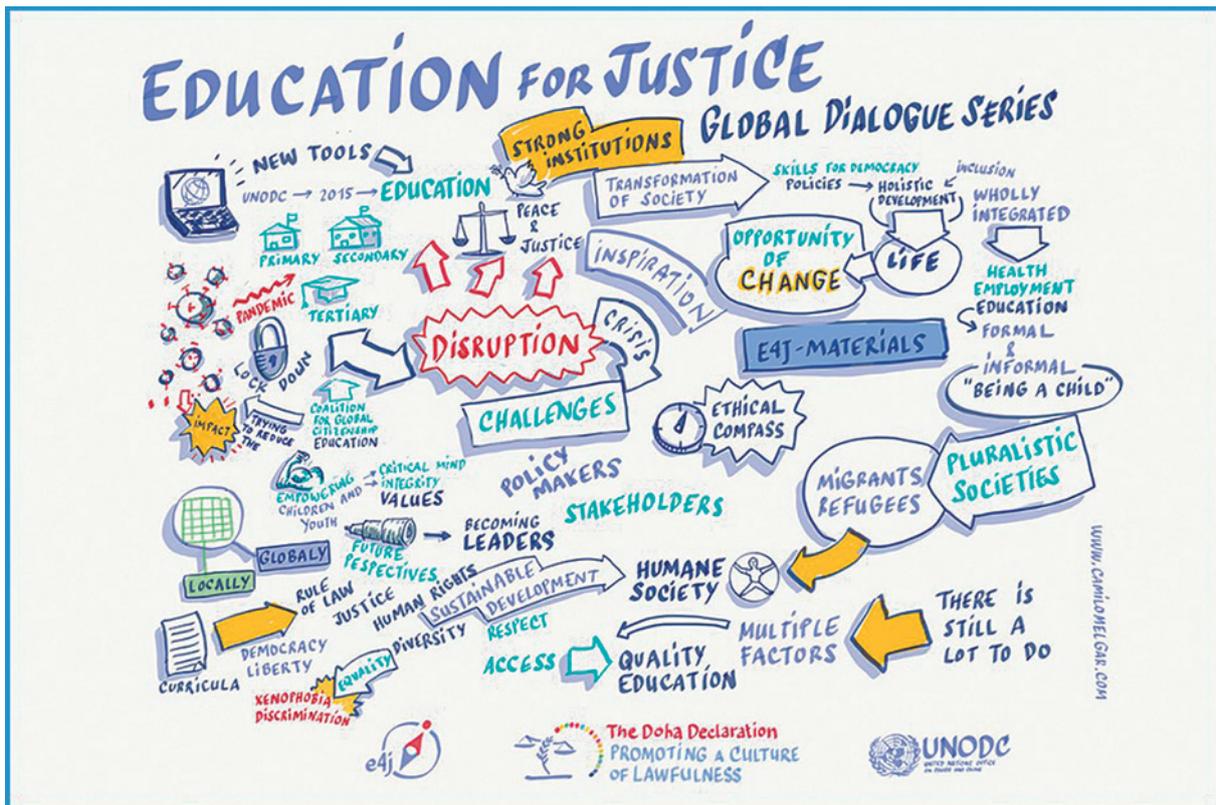
The objective of this paper is to highlight the essential interlinkages between the different Goals, how an ecolinguistics perspective provides a critical stance on education for sustainable development and how this contributes to establishing inclusive processes for decision-making, access to information and access to justice, to empower people, notably educators for the context of this paper, in the promotion of non-discriminatory laws and policies for sustainable development. These are taken into consideration with the knowledge that environmental harm, such as the ecological degradation experienced in Mauritius, harms human rights which are fundamentally intertwined with the ecosystems in which we live. Access to justice, access to information, public participation and the ability to exercise human rights in a peaceful way are activities that help to protect nature and societies as interdependent, for the promotion of sustainable development (United Nations Human Rights Office of the High Commissioner, 2018).

This paper adopts a self-reflexive case study approach, in terms of post-research reflections, to present the work being carried out in relation to research, teacher education and curriculum development, which represent the core mandates of the Mauritius Institute of Education. These core mandates are related to the strategic position of the Institute on the island, as the hub for the professional training of educators at pre-primary, primary and secondary levels, national textbook development and research to inform practice and policy. To some extent, it can be argued that the Institute, in its very essence, must also be a strong institution by nature due to its key role in the educational system of Mauritius. The Institute has a responsibility to strive towards achieving Goal 16 as it has fundamental roles to play not only in training teachers, who then contribute to educating future generations, but also in national curriculum development, and in informing educational policy through research. Through these three cases studies, emphasis is put on how the Mauritius teacher-education context must strengthen education to shape generations of teachers who will, in turn, influence society through teaching in schools. Using the self-reflexive case study approach, we also draw recommendations that can be implemented by other higher education institutions.

This paper also chooses to highlight the interlinkages between Goals 4, 13, 14, 15 and 16, in relation to ecological social justice. The approach is not to address the issue in a frontal manner. Instead, the paper attempts to demonstrate how the interconnectedness between other Goals, studied through the three core mandate cases mentioned above, contributes to strengthening the Mauritius Institute of Education. This is a choice inspired by the general theoretical posture of complexity (Morin, 2007; Morin, 2008), which advocates the intrinsic interconnection between things and the conception that everything is woven together. It also recognises the broader holistic dimension of this interconnection and the systemic levels and multiple causalities. This choice is also informed by the Education for Sustainable Development: Towards achieving the SDGs (ESD for 2030) framework from the United Nations Educational, Scientific and Cultural Organization (UNESCO), and a critical interpretation of the discussions around the E4J Global Dialogue Series, which was a virtual event organized in December 2020. Both sources stress the empowerment and mobilization of youth and the importance of transforming learning and training environments, notably in affording ethical opportunities for change. ESD for 2030 also has a strategic objective to “promote ESD as a key element of quality education and a key enabler of all 17 Sustainable Development Goals with special attention to a) individual transformation, and b) societal transformation.” (UNESCO, 2019)

Although the infographic of the E4J Global Dialogue Series below by Camilo Melgar is not considered a framework in the traditional sense, this paper argues that it represents a model (Valery, cited in Le Moigne, 1999). Valery states that “nous ne raisonnons que sur des modèles” (“we reason only through models”). This visualisation of the E4J discussions is a form of diagrammatic modelling which deserves valorisation and theorisation so that these voices and artistic creations are not lost. Instead, these forms of modelling are more meaningful by highlighting them in academic debate and presenting them in public forums and in the classroom, and in terms of how they provide access to information for different types of learners and individuals who relate to different means of information diffusion. Additionally, knowledge is generated through multimodal forms, by specialists and non-specialists alike (Feyerabend, 1975). They are therefore useful in terms of providing epistemic access. The E4J visualisation, as a model and a resource, is thus instrumental to how we articulate our thought processes, especially in that it showcases the interconnection of core areas and elements to achieve Goal 16.

To circumscribe this argument within the objective of this paper, it is proposed to condense the critical reading of ESD for 2030 and the E4J Global Dialogue Series into a four-constellation framework for ecological social justice which is in line with the theoretical posture of the paper



Source: Visualisation of the E4J Global Dialogue Series (2020), original work by Camilo Melgar.

and builds on the principles of the E4J initiative. The four constellations are:

- Empowering children and young people (critical thinking, integrity, values)
- Opportunity for change and ethical compass
- Primary, secondary and tertiary education, peace and justice, strong institutions
- Humane society and quality education

### Mauritius as the context for ecological social justice: from inherent contradictions to a microcosm of opportunities

In this section, the paper chooses to present the local context as a space of contradictions, inspired by Bang and Døør's (2007) model of core contradictions which constitute the social praxis. These core contradictions are not dichotomies but, instead, fundamental elements that “constrain general behaviours (including language use) of humans through generative constructive tensions” (Hookoomsing and Oozeerally, 2018, 15). Age, sex, authorities and ideology are some examples of core contradictions. Here, the paper discusses the Mauritian landscape in terms of the two contradictions of linguo-

cultural diversity–biodiversity loss and as a “tourist haven” promoting mass urbanization.

Mauritius is an island in the Indian Ocean, with a population of about 1.2 million and is a fundamentally heterogeneous space. It gained independence in 1968, after being colonised by France and United Kingdom of Great Britain and Northern Ireland. The island is populated predominantly by people originating from Africa, India, China and France. Successive waves of colonial and post-colonial immigration have brought inhabitants who descend from geographically diverse origins; thus, new cultures, languages and identities have been introduced into the Mauritian landscape, resulting in complex social dynamics and cultural heterogeneity. Unlike many other colonised nations with indigenous peoples who have powerful historical and ancestral bonds to the land and environment, this paper puts forth the argument that the non-existence of an indigenous human population in Mauritius could account for the lack of strong heritage and ancestral ties to the island and its ecosystem, which potentially impacts on representations and interactions with the local ecosystem (Hookoomsing, 2021).

Mauritius has suffered in terms of biodiversity loss, due to the pervasiveness of fundamentally colonialist, capitalistic thinking. All settlers, whether intentionally settled or forced to settle, came to the country solely for the exploitation of the land and the use of the ecosystem as “resources” to be

marketed and sold. This historic legacy of capitalist ideology continues to impact on the environment in Mauritius. Despite conservationist interventions and campaigns, the island continues to face significant ecological damage as a direct result of human activities which are so heavily focused on the component of “development” that ecological issues are not prioritised and “sustainability” is considered from a heavily anthropocentric perspective that harms the environment. Whilst Mauritius has a strategic location, geographically and within the socio-political sphere, this has come at the cost of substantial damage to natural habitats and the environment. This has an impact on the nation’s capacity to protect fundamental freedoms in relation to freedom from pollution, environmental degradation and activities that adversely affect the environment, threaten life, health, livelihood and the well-being of the people of Mauritius.

Though Mauritius is marketed as a tourist haven, the reality is that mass urbanisation and “economic development” has resulted in colossal land loss and ecological destruction. Some of the most significant environmental issues that Mauritius faces are water pollution, degradation of coral reefs (especially since the devastating MV Wakashio oil spill of 2020), extinction of endemic flora and the near-extinction of the Rodrigues fruit bat. In addition to these environmental issues, only nine out of 25 known species of indigenous birds remain in existence on the island, and less than two per cent of the native forest remains. In fact, Florens (2013) states that “Mauritius and Rodrigues are among the last places on earth to have been reached by humans and yet are also among the most ecologically devastated.” These stark facts may seem shocking for a small island of only 1,865 square kilometres, but Mauritius is experiencing bio-depletion, gross ecosystem decline, biodiversity loss and extinction similar to that which is being experienced on a mass scale around the world (Crist, Mora and Engelman, 2017). The necessity to advocate for a broader vision of peace and inclusion sensitive to local realities and to strengthen education for ecological social justice is significant in light of these contradictions related to the loss of human diversity and biodiversity.

It is important to address these issues as they concern a sustainable future, life on land and life in water for Mauritius, which is an ocean state with territorial waters and many islands forming the country. The Mauritius Institute of Education has a strategic position as an institution responsible for national education, training and curriculum. In this sense, the Institute has a responsibility to provide access to information and knowledge and to carry out inclusive and responsive decision-making, in alignment with Goal 16 targets 16.7, 16.10 and 16.b. Work must be done to address these issues through education, in terms of ensuring mutual reinforcement of Goals 4, 13, 14, 15 and 16 to empower future generations with the knowledge, tools and modes of being to create positive, peaceful, sustainable change for the environment and society.

## Ecological social justice: language and ecolinguistics – why do they matter?

In working to promote ecological social justice, interdisciplinarity and a broader vision of peace and inclusivity in Mauritius, related to strengthening the interconnectedness of Goals 4, 13, 14, 15 and 16, the work of the Mauritius Institute of Education primarily relates to and revolves around ecolinguistics. Ecolinguistics is a field of study which enables us to reflect on ways of restoring the epistemic links between the biosphere and anthroposphere to enable ecological social justice, and a broader alterity which moves beyond reductive conceptions of society that excludes the environment and the fundamental connection of humans, and human culture, as part of nature and an ecosystem.

Ecolinguistics, or ecological linguistics, is a paradigm of linguistic research, widening sociolinguistics to consider not only the social context in which language is embedded, but also the environment (Skutnabb-Kangas and Phillipson, 2008; Fill and Mühlhäusler, 2001; Stibbe, 2015). Ecolinguistics studies the role of language in sustaining relations between humans and nature; one of the key things is searching for inspirational forms of language which can help people respect other species and the ecosystems that life depends on (Stibbe, 2015). Ecolinguistics is concerned with the ways that discourse and language have an impact on forming, maintaining, influencing and destroying relationships between humans, other life forms and the environment. Ecolinguistics is also critical of the conceptual term “sustainable development”, as the term is embedded in a fundamentally ambivalent and potentially destructive anthropocentric perspective which considers nature as a resource and which has become pervasive in the very conception of sustainability and embedded in the Sustainable Development Goals (Stibbe, 2021). This critical stance is similar to the post-humanist view (Daigle, 2021).

Although education for sustainable development is aimed at developing awareness and understanding of climate change and biodiversity to empower people, through quality education, to be responsible and respectful, and interact in a more sustainable world (UNESCO, 2018), the discourse within United Nations documents remains heavily anthropocentric and, unfortunately, contributes to erasing biodiversity, the reality of humans as a holistic part of nature and the notion of “nature as intrinsically valuable life” (Stibbe, 2021). For these reasons, it is argued that the concept of ecological social justice reorients and extends the ethical dimension of the Goals and E4J to move away from anthropocentrism and towards a recognition of ecological rights in balance with human rights. This move explicitly acknowledges, for example, the intermeshing of social issues and environmental issues, human dependence on nature

and the potential for an increase in conflicts, violence and suffering when these freedoms and rights are denied or are no longer available.

Ecolinguistics provides a valuable transdisciplinary perspective and challenges us to think responsibly about our interconnectedness with the biosphere, address ecological issues and develop self-awareness in relation to our discourse. Education and discourse around ecological issues and global concerns are fundamental in raising awareness among humans, especially younger generations (Stibbe, 2015). It is significant as a theoretical lens to examine education for sustainable development, educational issues in general and, more specifically, those pertaining to the Mauritian educational context. It examines language not just as a part of society but also as part of the wider ecological systems that societies are embedded in. Ecolinguistics provides a wider account of language than sociolinguistics because the wider ecology influences the linguistic system (i.e. ways of speaking about the natural world) and language influences ecology (i.e. it can encourage people to behave in ways which harm or protect the natural world). It also provides a way for linguists to address some of the key issues that affect human civilisation, from climate change to environmental injustice.

Another factor of importance is that the traditional cultures of small island developing States, such as Mauritius, are likely to have ways of using language that encourage people to protect the ecosystems that life depends on. The priority is demanding ecological justice and drawing on traditional local culture to help provide new stories to live by (Stibbe, 2015). Ecolinguistics is thus a valuable lens through which to examine and (re)interpret the four constellations from the infographic (United Nations Office on Drugs and Crime, 2020). The potential of ecolinguistics as a theory and an overarching philosophy is significant in informing educational policy and practice in relation to strengthening the connection between Goals 4, 13, 14, 15 and 16, as well as previous understandings of E4J and ecological social justice.

Whilst education is a part of the anthroposphere, it is situated to play a momentous and vital role in bridging the ever-widening gap between the “realm of humans” and the entire planet, inclusive of our most immediate ecosystems and the larger planetary ecosphere. The role that education plays is essential in learning about the world we live in, to teach how this world is being affected by climate change and the loss of biodiversity, with the extinction of animals and plants on an unprecedented scale. Education is also a vector for developing knowledge and understanding in relation to how to face or mitigate the challenges of such global catastrophes on micro, meso and macro scales. Hence, the global turn towards education for sustainable development. Mauritius has also adopted the Sustainable Development Goals in its curriculum reform, with education for sustainable

development forming part of national curriculum documents materials (Ministry of Education, Human Resources, Tertiary Education and Scientific Research, 2016).

Alongside this, holistic education (Nacagawa, 2000, Nava, 2001; Miller, 2013; Miller, 2019) provides a viable approach in Mauritius to achieving more justice in society and the education system in relation to the E4J initiative, specifically in terms of ecological social justice, empowering children and young people and developing a human society. Intermeshed with this concept of holistic education, Morin (2001) proposes the cultivation of four central values in terms of planetary awareness, which are particularly relevant to innovative approaches in teaching, research and curriculum development. These are:

- Anthropological awareness (conscience), which recognises our unity in diversity
- Ecological awareness and conscience that we are inhabiting the planet with all other mortal beings, in the same living sphere (biosphere), and acknowledging our consubstantial link with the biosphere, leading us to nourish the aspiration of harmonious coexistence on Earth
- Earth civic awareness, responsibility and solidarity for children of the Earth
- Dialogical awareness which comes from the complex exercise of thought and allows us to simultaneously criticise and mutually understand ourselves

The national curricula of Mauritius, for pre-primary, primary and secondary levels of education, include a holistic philosophy in the approach to teaching and learning. Though there is no national curriculum framework, as such, for higher education, the Mauritius Institute of Education does include the concept of holistic development and learning in its overarching mission to empower students and educators. Through holistic education we are in a position to integrate content aimed at promoting peaceful and inclusive societies for sustainable development and combating crimes against the environment. Concomitantly, the Institute is also strategically positioned to innovate and extend understanding of the holistic and universal interconnectedness of the Sustainable Development Goals and the ethical dimension of the Goals.

## Methodology: a reflexive case study of research and practice

The Mauritius Institute of Education functions as the holistic case study for the approach of this paper. It uses three units of analysis:

- Research projects related to ecolinguistics (Stibbe, 2015) carried out by academics attempting to contribute

to the promotion of ecological social justice and interdisciplinarity

- Curriculum development activities at the primary level that address socio-cultural and ecological issues
- Teacher-education practices that incorporate module content that advocates for a broader vision of peace and inclusivity sensible to local realities

The three units of analysis have been identified by taking into consideration the four constellations identified above and showcase how the institution, through research-driven action in these units, is moving towards strengthening itself and education in general. The units of analysis have been studied using an ex-post facto approach: in all three units, the reflection points around research, curriculum activities and teacher-education practices have been generated from what has already been carried out in practice. In adopting a qualitative method of reflexivity, this paper simultaneously provides insights into how the Institute has a strategic impact in Mauritius on non-discriminatory policies for ecological social justice, ensuring mutual reinforcement of Goals 4, 13, 14, 15 and 16.

Using this reflexive case study approach as the principal methodological consideration, this paper has opted to present its findings, in the following section, in terms of descriptions of the three above-mentioned units of analysis in combination with analytical discussion. A 2014 research project attached to the Institute and previous doctoral research, which was the independent activity of the authors, are presented in terms of attempts to contribute to reflections that promote ecological social justice and interdisciplinarity. Curriculum development activities for primary level French and English textbooks are discussed in terms of how such work has endeavoured to address socio-cultural and ecological issues. Then advocacy for a broader vision of peace and inclusivity sensible to local realities is reported in relation to innovations in teacher education for language modules in English and French.

## **E4J ecological social justice innovations in research**

This paper chooses to present innovations in research for two reasons: firstly, it is the first mandate listed in the governing legal framework of the Mauritius Institute of Education; secondly, it is argued that research not only drives academic activities but also represents a significant entry point whereby academics can actively and consciously contribute, at the individual and collective levels, to peace, justice, inclusive and responsive decision-making, and the provision of and access to information. This is even more applicable given the strategic role of the Institute within the local educational landscape to empower in-service and future educators to teach the next

generation to better understand and address problems such as crimes against the environment and wildlife crime, and how these affect social realities and conflicts, which in turn have an impact on the environment and sustainability. For the purpose of this paper, discussion is limited to two research items which highlight ecological social justice and correspond to the holistic principles and values of the proposed four-constellation framework. The two items are research carried out in 2014 on (a) the Foundation Year Programme and (b) on the ecologically responsible, anthropoharmonic, critically holistic and humane education (Eco-ACHHE) model, which is part of the main recommendations of recent doctoral research carried out by Hookoomsing (2021).

### **Foundation Year Programme 2013-2014**

The Foundation Year Programme was a 2013-2014 curriculum development initiative of the Mauritius Institute of Education aimed at facilitating the transition for learners from pre-primary to primary school in Mauritius. The textbooks and literacy materials that were conceptualised and written for the Foundation Year Programme were intended for first-year primary school pupils, who are aged five to six years old, and were significant in relation to representations of animals and the notion of the integrated curriculum. In its essence, the Foundation Year Programme was an endeavour to promote holistic education and favour inclusivity at various levels. Firstly, it discarded a compartmentalised view of subject areas and disciplines in favour of moving towards an integrated, inclusive set of themes organized around four domains of learning: language and literacy development, personal and social development, creative and logical thinking, and health and physical education. Secondly, the academics involved drew from research carried out on multilingualism and multilingual practices to reconceptualise languages not in isolation but within a set of heterogeneous practices. The material was bilingual (English and French). Prior to this, all textbooks had always been written and organized according to subject areas and all were in English, except for the French and optional language textbooks. Elements from ecolinguistic research were included in the textbooks, in the sense that animals were given salience (Stibbe, 2015) through the use of anthropomorphic animal characters (Hookoomsing, 2021). Also, local animals were chosen to highlight the contextual dimension. The characters would function as visual support and educational “friends”, accompanying the learners through the various activities, through pictures, rhymes, direct questions, short texts and character speech bubbles. Hence, the material was inclusive at the pedagogical, linguistic and ecolinguistic levels, and condensed the axiological aspects of ecological social justice.

The Foundation Year Programme animal representations also revealed how elements of ecological social justice, as well as the holistic and humane dimensions of E4J, can be challenging to integrate into educational materials. Representations can influence and shape the beliefs and ideas of an individual or a group. They can “sometimes call our very identities into question. They define what is ‘normal’, who belongs and therefore, who is excluded” (Hall, 1997, 10). These Foundation Year Programme materials yielded the potential to have a direct or indirect impact on the beliefs, opinions, understandings and actions that people have towards animals and nature in Mauritius. For ecological social justice in terms of inclusivity, values, ethics and humane society, these representations also influence what is included as “normal”, and taken for granted as such, as well as what is excluded. As a consequence of excluding certain animal representations, they are excluded from a portion of the children’s learning in school and from what is understood as “regular” and accepted for children’s learning in school, which is a challenge for ecological social justice.

Culture forms part of representations and meaning-making (and vice versa), and cultures are an inherent part of Goal 16; culture contributes to and shapes the way we think about everything and, thus, how we act towards the world around us. In relation to this, representations of ecological issues in Mauritius, including animals that relate directly to Goals 13, 14 and 15, reflect powers of inclusion and exclusion and produce culturally, context-bound meanings about the nature and value of what is represented. Hall (1997) describes the politics of representation as the effects and consequences that representations have within a cultural and even global context. His approach explores “how the knowledge which a particular discourse produces connects with power, regulates conduct, makes up or constrains identities and subjectivities, and defines the way certain things are represented, thought about, practised and studied” (Hall, 1997, 6).

Ultimately, despite being innovative, research-driven, inclusive and aligned with education for sustainable development, the 2013-2014 Foundation Year Programme proved to be difficult for primary teachers to implement. As a result of a number of socio-cultural and political factors<sup>11</sup> (Rughoonundun-Chellapermal, 2017), it was abandoned after a year and textbooks reverted back to subject areas. Nonetheless, this experience provided valuable insights into how to implement research in practice and how to conceptualise holistic education, ecological social justice and inclusivity in line with the four-constellation framework that would be relevant to the local realities and communities of Mauritius.

11. Latent ethnic tensions, ethno-communal animal associations, representations of the first language (Creole) as devoid of all prestige and not worthy of consideration in a mainstream textbook and resistance from teacher unions).

## Eco-ACHHE model

As mentioned above, the Eco-ACHHE model (Hookoomsing, 2021) is part of the findings of recently completed doctoral research. The main points of the model are briefly discussed and their relevance in academic praxis are subsequently explained, in terms of how the different Sustainable Development Goals, which are holistically interconnected, work together towards Goal 16. The model consists of three main parts which are interrelated and mutually inclusive.

- The first part highlights the theoretical and epistemological conditions necessary for the implementation of an Eco-ACHHE curriculum, in terms of empowering teachers and children to develop a critical mind and a system of inclusive and ecologically responsible values. It also situates the setting for the creation of a humane, holistic way of thinking and being. Culture is an important element, as a cultural cognitive machine (Morin, 2008), emerging from the multilevel interactions between the noosphere, the biosphere and the psychosphere. Language plays a central part in the formation of culture (Blanchet, 2012; Foucault, 2013) as a vector and transmitter of socio-symbolic information about life. Such information has a direct impact on the behaviour and representations of individuals towards others and the formation and perpetuation of stories (Stibbe, 2015).
- The second part highlights the importance of discourse, which is inclusive of texts, in the formation of representations and attitudes towards the environment. Textbooks, for instance, are important artefacts (Vygotsky, 1978) that mediate the child’s learning and interaction with others. These artefacts encompass multiple layers of representations of others through stories (Stibbe, 2015), discourses of curriculum developers and indirect discourses of other stakeholders, with the latter two functioning as interpositions between the child and the curriculum materials themselves. As a measure to move away from unfounded destructive discourses, research was found to be crucial to pave the way for informed decisions and reflections. Research allows the progressive motion towards praxis, including that of curriculum developers and academics involved in the process of curriculum conception. The philosophical, epistemological and theoretical foundations of ecolinguistics provide a valuable lens through which discourse can be reflected upon, problematised and critically evaluated, to pave the way towards an Eco-ACHHE curriculum. Children, as critical readers and active meaning-makers, have the capacity to construct representations from the discourse in textbooks. Hence, for teachers and curriculum developers, cultural and ecological awareness are fundamental in the choice of material and stories used in the education system.

- The third part suggests a transformative model, notably through holistic education as a philosophy that is already present in the Mauritian educational landscape. It is thus a viable pathway that would not imply a dramatic disruption or change in current policies and practices. It would not be a drastic overhaul, but instead, a reconfiguration of the existing system in the Mauritian context. This paves the way, through the adoption of research into holistic education and ecolinguistics, to strengthen the educational institution by means of adopting ecological social justice principles aligned with the interconnectedness of Goal 4 and Goals 13, 14, 15 and 16.

The adoption of an Eco-ACHHE philosophy is achievable from a micro level, starting with the sensitisation of teachers in their pedagogical choices and discourses when teaching and engaging with their learners. This grassroots level of awareness is essential; doctoral research has shown that children are not only critical readers and active meaning-makers, but are also influenced by adult discourse, media and various types of texts (Hookoomsing, 2021). Developing this sensitivity could be done, for example, via the integration of the four types of planetary awareness (Morin, 2001) when devising class activities, prompting questions or organizing fieldtrips or any other pedagogical projects that teachers envisage. At the meso level, the model can be used when considering the overarching philosophies for textbook writing choices, module objectives, strategies and course content for teacher-training in early years and primary education.

In terms of macro-level implications, the whole model can be used for policy development, such as national curriculum framework objectives, the reorientation of “education for sustainable development”, explicit learning aims for holistic education at all levels (primary to tertiary and beyond) and the reconfiguration of conceptions of citizenship education towards Eco-ACHHE. The model therefore has implications for the educational system of Mauritius at micro-level teaching in the classroom, meso-level curriculum development and teacher-training, and macro-level national-policy decisions. This is a key aspect regarding Goal 16 and the inclusion of other Goals. The Eco-ACCHE model is geared towards quality education (Goal 4) and, by virtue of its ecolinguistic and holistic theoretical underpinnings, incorporates elements from Goal 13 (climate action), Goal 14 (life below water) and Goal 15 (life on land). In this sense, it maps onto the four-constellation framework mentioned in the introduction to this paper:

- **Empowering children and young people to develop critical thinking, integrity and values:** the model incorporates pedagogical, philosophical and theoretical elements that are transposable to the practice

of teacher education, as well as education at the primary, secondary and tertiary levels, to promote the empowerment of children to reflect holistically and in harmony with the broader ecosystem.

- **Opportunity of change and ethical compass:** the model advocates a reformist and transformative model of curriculum which advocates for positive change at the micro, meso and macro levels, respecting the ethical principles of ecological social justice which integrates other Goals as mentioned above.
- **Primary, secondary, and tertiary education, peace and justice, strong institutions:** through a focus on quality education (Goal 4), this model is also geared towards strengthening the educational institution framework at large and extending the understanding of ecological social justice at the level of praxis and policy.
- **Humane society and quality education:** through its applications at the level of teacher education, pre-primary, primary and secondary education, and curriculum development, the model aims to contribute to a more humane society and to quality education, thus aligning with the principle of Goal 16. The scope of the model, from micro to macro level, also implies that it has the potential to inform national educational policy in promoting and implementing principles of ecological social justice, ethics and non-discriminatory policies.

As discussed above, both examples of research innovation highlight the importance of research as a core academic practice for promoting ecological social justice and informing education, inclusive of teacher education and national education, towards the adoption of a research-based set of axiological principles which align with the four-constellation framework. Another way in which this contribution is highlighted is through curriculum development, which is discussed in the section below.

## E4J ecological social justice innovations using research to address curriculum development

National curriculum development is one of the core mandates of the Mauritius Institute for Education. Academics and teachers are involved in the development of primary and lower secondary textbooks which are used across the local educational landscape (except in select private schools which may follow different programmes). The Nine-Year Continuous Basic Education reform triggered the need to review all primary and lower secondary textbooks to fit the revised and reworked overarching curricular objectives. Both authors of this paper were involved at the textbook production level, for French grades five and six and

English grades three and four, respectively. For the purpose of this paper, the decision has been made to discuss the approach adopted in the French and English textbooks, notably in terms of condensing the principles pertaining to the constellations identified above.

One of the overarching philosophies that was considered from the initial stages of textbook development was ecolinguistics, as a theoretical focal point that allows a holistic, ecologically responsible and ethical perspective which promotes ecological social justice and critical thinking. Textbooks are fundamental tools in the education sector that can promote harmonious discourse leading to peace and ecological social justice. It was therefore fundamental for the textbook writers to clearly align themselves with a philosophy that would allow, within the limits of what is possible, the production of quality textbooks. Considering that discourses have the power of forming the objects which they speak of (Foucault, 2013), one of the first principles that was adopted was to avoid anthropocentric and speciesist discourse. Anthropocentrism is the ideological stance according to which everything is centred around humans; speciesism is a systematically negative attitude towards non-human species. Previous research (Oozeerally and Hookoomsing, 2017) shows that language textbooks had the highest frequency of anthropocentrism and speciesism among all pre-reform textbooks. Thus, the decision to consciously act on the discourse that was being used in the textbooks was motivated by the findings of previous research, which had demonstrated the insidious pervasiveness of “ecologically disrespectful” language use.

Another decision was to consciously integrate textual material that raised awareness of ecological issues, human impact on the environment and the importance of moving towards a humane society that integrates values. For instance, in part one of the grade five French textbook, there is a whole unit explicitly geared towards environmental protection *Protégeons notre environnement* (Let’s protect our environment)). One of the texts used is an extract from *Le grand voyage de Dilans dans l’océan Indien* (*The Great Voyage of Dilans in the Indian Ocean*), a book which is aimed at supporting sustainable development in the Indian Ocean region. The text is an example of positive discourse; in particular it highlights that education is a way to develop ecological reasoning in connection with empathy. The overarching holistic, ecologically responsible discourse was present in other areas where texts were used as support material. In part two of the grade six French textbook, for example, the unit *Balades dans les îles de l’Océan Indien* (Strolling in the Indian Ocean islands) valorises the flora and fauna of the different Indian Ocean islands. Beyond the didactic dimension, such texts correspond to a positive, beneficial discourse and are based on the objective of developing ecological awareness and a humane and harmonious perspective.

A similar perspective was adopted in developing the English grade three and four textbooks. Ecological social justice and anthropoharmonism (Hathaway, 2015; Horowitz and Bekoff, 2007), as an embedded concept, were also integrated into the grade three and four English curriculum materials. Neutral representations of other species and beneficial discourse for protection of life on land and life in the water were included in the textbooks through stories. A module explicitly on nature and the environment was included in part two of the grade three English textbook, which included language activities related to ecological social justice in terms of protecting the environment and caring for animals. The second author of this paper wrote a children’s story alongside this textbook, as a complementary literacy material, which focuses on encouraging children to reflect on the impact of pollution and deforestation on the lives of forest animals and on the local socio-ecological environment in Mauritius.

For the grade four English textbooks, ecological responsibility and ecological social justice were included through language activities in several units of the textbooks. In unit seven of part one of the grade four English textbook, for example, an eco-mindful meditation activity was included in connection with cosmocentrism (Swimme and Berry, 1994). The activity encouraged children to develop attitudes of ecological social justice and appreciation of the natural world implicitly, through a combination of relaxed breathing and imagining themselves as a flower, a mountain, water and a star in the cosmos. In all the textbooks mentioned above, it is apparent how Goals 13, 14, 15 and 16 and Goal 4 have been woven into the overall discourse and philosophy governing the conception process. In doing so, the academics involved in the national textbooks conception process have integrated ecolinguistics research to ensure quality education and the development of a critical mind and values of alterity and integrity, all embedded within a critical holistic perspective. This process also opens avenues, through empathy, for the development of a humane ecosophy (Stibbe, 2015) among children. Hence, the process of textbook production not only creates tools for change, ecological social justice and peace, but also contributes to strengthening the educational institution.

## E4J ecological social justice innovations in teacher education

Attempts are being made to empower educators and future educators through teaching education, moving from awareness to practice. An undergraduate programme developed in 2019, targeted at secondary school level pre-service trainee-educators, provided the opportunity for academics to propose new modules and content. In this context of tertiary education curriculum development, the integration of ecological social justice was proposed,

with the objective of empowering young people (the trainee-educators enrolled being mostly students who have completed secondary schooling), informing secondary education with considerations of peace and justice, and moving towards humane society through quality education. Through the programme, the trainee-educators are also considered as transmitters of this philosophy, notably in terms of empowering children with critical thinking, integrity and values. As it is beyond the scope of this paper to examine the modules in an exhaustive manner, we are thus limiting the discussion to two modules in the undergraduate French programme: *Sciences du langage 3: texte et discours dans l'enseignement-apprentissage du français (SL3)*, and *Sciences du langage 4: approches altéristes (SL4)*.

While being fundamentally a module of discourse analysis, the content of SL3 has been geared in a way to allow trainee-educators to develop critical thinking, integrity and values through discourse. Ecolinguistics and eco-critical discourse analysis form part of the core content of the module to empower trainee-educators to be aware of the discourses they encounter and to develop further awareness of their own discourse, thereby constructing their own ecosophy (Stibbe, 2015). They are therefore equipped to situate language and discourse within the broader issues of society and the ecosystem, including the relationship between animals and consumerism, as well as issues concerning environmental crime. One example is the analysis of a text written in the pre-Nine-Year Continuous Basic Education reform standard five English textbook, which presents the Rodrigues octopus exclusively as a food item. By engaging in eco-critical discourse analysis, students were not only able to become aware of the highly human-centric perspective of the text, but also discuss the socio-ecological impact of such discourses in overfishing of the octopus. They were also able to situate their reflections within policy decisions, such as the ban on octopus fishing during the reproduction period. Consequentially, trainee-educators were empowered to analyse their own position, as well as their discursive decision-making processes as individuals and as future teachers.

Similarly, the SL4 module provides space for students to adopt a critical stance on language studies and situate language within the broader ecological context, with an explicit focus on how they can invest this knowledge in their teaching practice to bring meaningful change. It aims to capitalise on the knowledge gained in SL3 and highlights the ecological social justice dimension and its role in achieving a broader concept of peace and justice through education and research. As part of their training, students were required to assist the fifth edition of the International Conference on Ecolinguistics. One student reported that they were particularly alert to one presentation by Giulia Lepori, entitled *The Language of Becoming-with*, discussing permaculture and how the process is represented using ecologically harmonious language and philosophy. This

made the trainee-educator reflect on their own experiences at a local permaculture farm (La Ferme Coco) and these reflections were used in the planning of how they could bring students on language field trips to such places, not only to meet language-learning objectives, but to raise awareness and affect possible change on the stance to adopt when it comes to consumption patterns.

These two modules represent only a sample of how research has been used in tertiary curriculum development in terms of promoting a holistic perspective on quality education. This has contributed to strengthening institutions on at least two levels. The first level is the strengthening of the teacher-education institution in terms of the ethical dimensions of ecological social justice and peace that are combined within its teacher-education programmes. The second level is the strengthening of education, where educators and future educators can use what they have learned during their learning pathways to educate future generations, in terms of critical thinking, integrity and values, from a humane and harmonious perspective. It also highlights the intricate interlinkages between Goals 4, 13, 14 and 15 and, consubstantially, Goal 16, which are holistically and universally interconnected.

The authors have also participated in a number of seminars over the years to teach tertiary level students about ecological issues, to promote ecological social justice and its role in a more sustainable and just society, to equip teachers with the necessary critical skills to enable and encourage the empowerment of children and young people, and to create opportunities for socio-ecological change towards a more humane society. Within this sphere of ecological social justice innovation in teacher education, a series of three two-hour seminars with primary-school-level trainee-educators on the topic of ecolinguistics was developed and implemented. The first session introduced the trainee-educators to ecolinguistics as a field of study and encouraged them to reflect on ecological social justice, their own discourses about nature and the environment, and the impact that their discourse and teaching could have on children's learning and construction of knowledge of the biosphere. The second session was focused on mindfulness and the third session was an ecological, cosmocentric reading of the book *You Are Stardust* by Kelsey (2016). These seminars enabled the trainee-educators to build awareness of the complex, hologramic (Morin, 2008) interrelatedness of living beings.

The second seminar of the set focused on eco-mindfulness and education, which was the foundation leading into a creative writing activity about seeing the world through the eyes of another species that was present in the grassy area where everyone had been sitting. Encouraging trainee-teachers to see from the perspective of another living being was aligned with the Eco-ACHHE philosophy (Hookoomsing,

2021) and was a stepping stone towards developing the seminar participants' ecological responsibility, empathy towards other living beings, awareness of the socio-cultural and ecological impact of their discourse, and critical thinking for extending the ethical dimension of sustainable development goals towards ecological social justice.

The Eco-ACHHE philosophy (Hookoomsing, 2021) has been channelled into innovations in teacher education by incorporating it into strategies and activities for drama and performing arts. Tertiary-level students have carried out miming activities that implicitly encourage the development of an anthropoharmonic attitude towards people and other species; that expand understanding of alterity, which is an essential component of nurturing a humane society; and that promote peace, justice and inclusivity in relation to the socio-cultural and ecological realities of the local context. In addition to this, students have also carried out small role-plays that were focused on respect and empathy towards others, as well as on strengthening their constructions of knowledge of the biosphere in terms of anthropoharmonic and cosmocentric thinking. This highlighted the element of criticality and empowered teacher educators to adopt ethical principles relating to ecological social justice and the implementation of strategies that correspond to alterity, empathy and a humane perspective.

## Conclusion and recommendations for other institutions

This reflexive study, through the ex-post-facto analysis of the three units of study, namely research, curriculum development and teacher education, has highlighted the inherent, holistic interconnection of different Sustainable Development Goals. In terms of innovative approaches, this paper has shown how ecological social justice enables us to move beyond an anthropocentric conception of peace and justice towards the recognition of the intrinsic and inextricable connection between society, in terms of communities and cultures, and the environment. The paper has highlighted the interlinkages between the different Goals and how an ecolinguistics perspective provides a critical stance on education for sustainable development, with research being one of the overarching aspects that runs through all three units of study. Ecolinguistic research has informed teacher-education and curriculum development at the internal tertiary level and also at the national primary and lower secondary levels. This is a key area where academia can contribute to E4J and Goal 16. Academics are strategically positioned to contribute to the body of knowledge; this knowledge can be integrated into different key areas of practice and policy. In the case of the Mauritius Institute Education, the institution has multiple fundamental roles within the local educational landscape. In the examples presented here, research, as a driving force, has enabled

deeper reflection on the four-constellation framework, with one important Goal being the promotion of quality education. Quality education provides opportunities to bring forth issues concerning climate action, life below water and life on land. Awareness of and action on these issues are essential, especially when it comes to vulnerable small island developing States, such as Mauritius.

This paper argues that the construction of a healthy, strong, sustainable overarching institutional philosophy, which can inform policy, can be achieved from the bottom up and through individual and collective research-informed actions. In the case of Mauritius Institute of Education, the authors have adopted research-driven approaches for tertiary and national curriculum development and teacher education to include a harmonious ecosophy (Stibbe, 2015) for ecological social justice, which maps on to the four E4J constellations (United Nations Office on Drugs and Crime, 2020). This also aligns with Morin's (2001) four central values in terms of planetary awareness. Adopting such a stance in work within the Mauritius Institute of Education, through the promotion of ecological social justice, contributes to the peace and justice dimensions of Goal 16 in a way that is no longer anthropocentric, but takes into consideration the whole biosphere, thereby serving to shift perspectives and narrow the human-environment dichotomy (Hookoomsing, 2021).

Ecolinguistics research has also allowed us to reconceptualise holistic education in a way that enables a paradigmatic shift in how we approach language teaching and teacher education. This directly feeds into the practice of the authors as teacher educators, invested in curriculum, in relation to Goal 4 as well as Goals 13, 14, and 15. This paper argues that by addressing these Goals through education, the Mauritius Institute of Education can contribute to a central aspect of Goal 16, in terms of targets 16.7, 16.10 and 16.b. As mentioned in the conceptual section of this paper, its strategic position implies that these contributions to strengthening the Institute simultaneously contribute to strengthening national education as well. These actions directly influence the education of future generations through: national curriculum development and through equipping teachers with the necessary critical skills to enable and encourage the empowerment of children and young people (critical thinking, integrity and values); the creation of opportunities for change towards an ethical praxis; the strengthening of primary, secondary and tertiary education through peace and ecological social justice; and the nurturing of a humane society and the provision of quality education.

This paper further argues that adopting a harmonious, research-driven approach in tertiary institutions can have direct implications for "ethical accountability" in Mauritius. One example, in a different context, is the University of Gloucestershire: the institute was ranked number one in

the United Kingdom for sustainability in the People & Planet Green League 2019, according to performance in a set of 13 categories including environmental policy and strategy, ethical investment and education for sustainable development. While there is no such ranking system in place for local tertiary institutions in Mauritius, academics and researchers within individual universities can adopt the same principles in practice. In the Mauritian context, the adoption of the ecolinguistics framework in teacher education and curriculum development has also fostered critical reflection and raised awareness of destructive consumption patterns and environmental crime, such as overfishing and illegal exploitation of marine life. In this sense, this paper also argues that environmental rights and human rights are fundamentally intertwined, in line with the United Nations Human Rights Office of the High Commissioner document (2018), which states that humans are part of nature and human rights cannot be dissociated with the environment in which we live. Harm to the environment has an impact on the enjoyment of human rights, and at the same time, exercising human rights helps promote sustainable development through the protection of the environment. Deepening the understanding of the intricate relationship between human rights and the environment is fundamental in how Sustainable Development Goals can be achieved.

Research is key to at least partially addressing the issues discussed in this paper and to helping further understanding of the relationship between human rights and the environment. The recommendations presented in this paper are articulated principally around the academic volition to carry out research that encompasses a strong axiological dimension, which can be aligned with the Goal 16 principles, either directly or indirectly, as was the case in the 2014 Foundation Year Programme project and doctoral research activities of the authors, as well as their professional practice. Goal 16 cannot be thought of in isolation, as the notions of peace, justice and strong institutions are linked not only to other Goals, as has been demonstrated, but also to other areas of life and other stories (Stibbe, 2015). Indeed, specific Goal 16 targets within educational institutions can be achieved through individual and collective research-driven action by academics and other stakeholders involved in the process.

Institutions and universities, as well as external funding bodies, may also encourage funded research in such areas that will help achieve Goal 16 targets at the micro and meso levels. It is also posited that while top-down policy endeavours, especially at macro level, are laudable and useful, they do not necessarily and systematically trickle downwards to those who are further down institutional frameworks, most notably to students. Hence, it is also recommended that Goal 4 is used, notably in relation to quality education, as a practical opportunity for involving students in the research processes aimed at achieving Goal 16 targets. Students remain the societal bearers of knowledge; in the case of the Mauritius Institute of Education, students hold a crucial place in the sense that they are pre-primary, primary, or secondary level educators already in-service or future educators. They have the ethical and moral responsibility to educate future generations. Universities and tertiary institutions, like the Institute, have the ethical and moral responsibility to perpetually strengthen themselves, to ensure that these educators and educators-in-the-making are provided with quality education and training that takes into consideration the ethical and moral dimensions of education for justice, and to extend understanding of the holistic and universal interconnectedness of the Goals, especially the ethical dimensions of the Goals in terms of ecological social justice.



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# The Prosecution of Environmental Crimes in the United States: Establishing a Baseline Using Comparative Analysis

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## ABSTRACT

Environmental crime – such as wildlife trafficking, illegal, unreported, and unregulated (IUU) fishing and illegal timber trade – undermines sustainable development and threatens global biodiversity and security. Natural resources, valued at up to \$250 billion, are illicitly extracted and trafficked each year, depriving countries of often-critical development opportunities. Engaging in these crimes, however, is widely characterized as a low risk and high reward due to the low risks associated with getting caught or prosecuted, and the high rewards associated with the sale of often high-value products. Over recent years, various national and international initiatives have been enacted to strengthen institutions as they pertain to environmental crimes. In the United States, this includes a range of pollution and wildlife-related statutes. Most recently, the United States has seen action to combat the illegal wildlife trade in the form of Executive Orders 13648 (Combatting Wildlife Trafficking) and 13990 (Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis),

while in the international arena, initiatives such as the UN's Sustainable Development Goals (i.e., 14-16) continue to call for action as it pertains to biodiversity conservation and environmental justice. To make progress as it pertains to environmental crime in the United States, it is imperative that we understand how our federal judiciary treats these types of crimes. Comparing twenty-two primary offenses, regression models indicated that environmental crimes associated with individual offenders were treated most similarly to drug possession and forgery/counterfeiting/copyright infringement cases when analyzing both whether or not a prison sentence or monetary penalty was issued. As for organizational offenders, regression models suggested that environmental crimes were more likely to receive higher fines than non-environmental offenses.

## KEYWORDS

►► Federal crime / Prosecution / Sentencing / UN SDG / Wildlife / Nature

## 1. Introduction

Environmental crime, broadly defined to include wildlife trafficking; illegal, unreported, and unregulated (IUU) fishing; illegal timber trade; and a range of other pollution and environmentally damaging activities, undermines sustainable development and threatens global biodiversity and security. Natural resources valued at up to US \$250 billion are illicitly removed each year from around the world, depriving countries of development opportunities (Nellemann *et al.*, 2014; Nellemann *et al.*, 2016). Engaging in these environmental crimes is widely characterized as a low-risk and high-reward activity. The low risk of engaging in environmental crime starts with a low risk of detection at the time of the poaching incident, and notably continues up the trafficking/supply chain through the consumption of goods, and prosecution (Cochran *et al.*, 2018; EIA, 2015;

Elliott, 2012; Lynch, 2017, 2019; Lynch *et al.*, 2016; O'Hear, 2004). The high reward refers to the high value (often monetary) that is assigned to the associated products.

Over recent years, various national and international initiatives have been enacted to strengthen institutions as they pertain to environmental crimes. In the United States, environmental crime includes a range of pollution and wildlife-related statutes (see Appendix I). Most recently, the United States has seen federal-level action to combat the illegal wildlife trade – a significant contributor to environmental crime – in the form of Executive Order 13648 (Combatting Wildlife Trafficking, 2013) and its corresponding implementation plan. As of 2021, this wildlife-oriented action has been supplemented with Executive Order 13990 (Protecting Public Health and the Environment and Restoring

Science to Tackle the Climate Crisis, 2021), which addresses a broad range of environmental issues by directing Federal agencies to “review, and take action to address, Federal regulations [...] that conflict with national objectives to improve public health and the environment [...]” (The White House, 2021).

In the international arena, initiatives such as the United Nations’ Sustainable Development Goals (UN SDGs) continue to call for action as it pertains to biodiversity conservation and environmental justice. UN SDGs 14, 15, and 16 have specifically called for efforts to “conserve and sustainably use the oceans, seas and marine resources” (Goal 14); “protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss” (Goal 15); and (Goal 16.3) promote the rule of law at the national and international levels, ensuring equal access for all; to (Goal 16.4) significantly reduce illicit financial and arms flows by 2030; and to (Goal 16.7) ensure responsive, inclusive, participatory and representative decision-making at all levels (which is related to the Aichi Targets – a set of 20 global targets designed to promote biodiversity). To make progress regarding these national and international initiatives as they pertain to environmental crime in the United States, however, it is imperative that we understand how our federal judiciary handles these types of crimes.

This project, therefore, seeks to explore the claims that environmental crimes are low risk/high reward by attempting to understand how seriously environmental crime cases are treated by the US federal court system. Specifically, this study will examine which primary federal offenses environmental crimes are treated most similarly to, and differently from, when analyzed from a sentencing outcomes perspective.

## 1.1 Brief History of Environmental Law in the United States

Prior to the 1960s, there were two main pieces of environmental regulation that were used by federal officials regarding environmental crime: The Rivers and Harbors Act of 1899 and the Lacey Act of 1900. The Rivers and Harbors Act of 1899 was originally the only effective tool used to respond to pollution. According to the Department of Justice, this statute – under which violations were charged solely as misdemeanors – was “enacted to protect the navigability of federal waters, and it held violators to a strict liability standard for certain kinds of dumping”, and was increasingly being deemed ineffective by an industrializing society (U.S. Department of Justice, 2015). In 1900, the Lacey Act was similarly passed, making it a federal offense to knowingly engage in interstate trade or transportation of wildlife

taken in violation of state regulations. The Lacey Act has since been updated with several amendments and continues to be a cornerstone of federal criminal enforcement of wildlife crime.

By the 1960s, the United States had undergone significant environmental legislative change. Efforts began by targeting growing levels of pollution that were damaging the country’s air, water, and land, largely as a result of industrialization. This new attention emerged alongside several significant environmental events and movements, including the 1969 Santa Barbara oil spill of approximately three million gallons (Mai-Duc, 2015), the anti-nuclear movement (National Park Service, n.d.), Rachel Carson’s 1962 book *Silent Spring* (on the topic of pesticide poisoning) (Griswold, 2012), and the first Earth Day in 1970 (<https://www.earthday.org/history/>). These events led to the adoption of several significant pieces of federal environmental legislation. Amongst the most well-known adoptions were the Clean Air Act (1970), Clean Water Act (1972), Endangered Species Act (1973), and the Safe Drinking Water Act (1974), among others (U.S. Department of Justice, 2015).

This same era was a time of change for other parts of the world as well. Following the 1972 International Environmental Conference in Stockholm, the European Council founded the European Union’s environmental policy and the first five-year environmental program (Selin and VanDeveer, 2015). In 1974, India was experiencing the Chipko movement – a forest conservation movement rooted in the Himalayan region of Uttarakhand (<https://www.britannica.com/topic/Chipko-movement>). Australia was similarly in the midst of the anti-litter movement (<https://wastemanagementreview.com.au/keeping-australia-beautiful-since-1971/>) and New Zealand was experiencing the “Save Manapouri Campaign” to prevent the rising of lakes Manapouri and Te Anau (<https://teara.govt.nz/en/conservation-a-history/page-8>). Latin American officials were also striving to make environmentally-oriented changes but were set back by political movements as various governments transitioned from military dictatorships to democratic governments (Figdor, 1988).

## 1.2 Environmental Crime Research

Although the boom in legislation in the United States led to a wide range of environmental and conservation-related laws (<https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/>; <https://www.epa.gov/laws-regulations>), many agree that the detection of associated offenses and subsequent criminal prosecution remain lacking many years later at the federal, state, and local levels (Burns *et al.*, 2008; Cochran *et al.*, 2018; Konisky, 2009; Lynch, 2017; Lynch *et al.*, 2016; Shelley *et al.*, 2011).

### 1.2.1 Perceived Seriousness of Environmental Crimes

Environmental crimes are argued to cause more harm to society than traditional crimes. O’Hear (2004) categorized environmental crime into seven harm typologies, including (1) immediate physical harm, (2) future physical harm, (3) emotional distress, (4) disruption in social and economic activities, (5) remediation costs, (6) property damage, and (7) ecological damage, which together illustrate the pure breadth of environmental crime damage potential. The World Health Organization (WHO), focusing specifically on the negative health effects associated with environmental crimes, further estimate that 23% of global deaths (equivalent to approximately 12.6 million individuals) and 26% of deaths among children are due to modifiable environmental factors, such as pollution of air, water, and soil; various forms of radiation; and climate and ecosystem change; among others (Prüss-Üstün *et al.*, 2016). At the international level, several UN Sustainable Development Goals (SDG’s) (i.e., goals 3, 6, 13, 14, 15, 16) target this issue and strive to reduce these numbers on a global scale, reflecting global concern. Select research, however, has examined whether the American public’s perception of environmental crime severity reflects its harm to society (i.e., Shelley *et al.*, 2011; Wagner *et al.*, 2019).

Work by Shelley *et al.* (2011) assessed whether the American public perceived environmental offenses as serious crimes, how they would rate environmental crimes in comparison to non-environmental crimes, and if there was a consensus about environmental-crime seriousness or whether such perceptions varied by demographics. The authors concluded that environmental crimes were in fact perceived as serious crimes, and perceived more seriously than traditional street crimes, but that there were also socio-demographic differences in such perceptions<sup>12</sup>.

More recent research by Wagner *et al.* (2019) explored the perceived seriousness, harmfulness, and wrongfulness of wildlife crimes, such as illegal hunting and fishing, in comparison to more traditional offenses against persons and property. Their survey results indicated that wildlife crimes were ranked less serious, harmful, and wrong. Perceived wrongfulness was the most powerful predictor of the perceived seriousness of all offenses. On the other hand, research by Leavitt *et al.* (2020) demonstrated an overwhelming willingness among survey respondents in the Western US to report observed wildlife crimes (via a poaching hotline), irrespective of any economic rewards.

12. Women assigned higher seriousness scores to environmental crimes than men; older assigned higher seriousness scores than younger; non-white individuals assigned higher scores than white individuals; individuals without college experience assigned higher scores than those with some college experience or a degree; lower earning individuals (<\$49,000) assigned higher scores than higher earning individuals (>\$50,000).

Such behavior may also be suggestive of some level of perceived seriousness of wildlife crime by the public. Together, these two somewhat conflicting studies may be indicative of a larger lack of public consensus (or awareness) as it pertains to wildlife crime among the American people.

Given that environmental crime in the US is comprised of crimes ranging from air and water pollution through wildlife offenses (see **Appendix I**), it can be argued that previous research (i.e., Leavitt *et al.*, 2020; Shelley *et al.*, 2011; Wagner *et al.*, 2019), which represents the known research on the topic, is inconclusive as to the perceived seriousness of such crimes in the US, given the mixed results of perceived seriousness across the relevant crime types.

### 1.2.2 Weak Probability of Punishment for Environmental Offenses

While environmental crimes may or may not be perceived as serious by the general public, the probability that an environmental case is prosecuted remains notably low, as research by Lynch *et al.* (2016) demonstrated by examining records from the US Environmental Protection Agency (EPA). Studying EPA data on criminal prosecutions from 1983 through 2013, Lynch *et al.* (2016) noted that there were significantly fewer enforcement agents for environmental crime in comparison to traditional street crimes in the US; yet, that there was more deterrence associated with environmental enforcement than street crime enforcement. Therefore, the identified weak probability of criminal punishment further impacts the future undertaking of environmental crimes, since the imposition of fines or penalties is argued to decrease the occurrence of environmental crime once issued (i.e., act as a deterrent) – a complex discussion that is greatly detailed in their research.

Over the 31 years examined (1983-2013), the EPA only completed 583 criminal enforcement cases. That is equivalent to 18.8 cases per year across 20 existing statutes over 50 states – or 0.94 cases per year/per regulation – for an estimated over 2.3 million US companies with more than 5 employees (Lynch *et al.*, 2016). Further research by Lynch (2017) on EPA cases detailed that very few (n = 52 over a 14-year period, including both individual and corporate offenders) environmental cases go to trial.

Crow *et al.* (2013) are amongst the only known examinations of criminal enforcement as it pertains specifically to fish and wildlife offenses. Their analysis examined such cases in the state of Florida. There, fish and wildlife offenses comprised only 2.2% (n = 15, 657) of all offenses in the state, and were focused on individual as opposed to organizational offenders. As for sentencing, nearly half of these cases were charged with permit violations (i.e., for having no or improper hunting/fishing permits).

### 1.2.3 Sentencing and Punishment of Federal Environmental Crimes

Four recent studies (discussed below: Cochran *et al.*, 2018; Lynch, 2017, 2019, 2021) provide further insight on the issue of environmental crime sentencing in the US. Following up on the above mentioned research by Lynch *et al.* (2016) into the EPA's probability of punishment, Lynch (2017) examined the prosecution of these cases. Exploring cases published by the EPA from 2000-2013 on the basis of 22 environmental laws<sup>13</sup>, Lynch concluded that the number of environmental cases completed in the US was small – only 465 criminal cases were completed over 14 years. The gross majority (90%) of offenders pled guilty rather than face trial. Further, only four corporate cases accounted for over 95% of fines received by corporations; excluding such cases brought mean fines down from \$38 million to \$1.27 million. No corporate offenders faced incarceration. When individuals were sentenced to incarceration, mean sentence lengths were also deemed small – averaging 25.16 months – with only about 4% of cases significantly skewing this value. Excluding these skewed cases dropped the mean to 18 months. When cases without incarceration were added to this calculation, the mean further decreased to 8.81 months. Finally, Lynch (2017) concluded that the most likely punishment for individual offenders was probation, followed by a financial penalty (with rarity of large fines). Individual sentences averaged 4.8 months for environmental offenders, with those who received over a year-long sentence having also committed a non-environmental offense (i.e., conspiracy, tax fraud, drug or firearm offenses).

Cochran *et al.* (2018) examined sentencing patterns for environmental crime cases over a 15-year period (1994-2011) in Florida in order to test the assumption that “green” offenders receive more lenient treatment from criminal courts than non-“green” offenders. With similar results to Lynch *et al.* (2016) and Lynch (2017), Cochran *et al.* (2018) found that only a small percentage (<1%) of felony convictions in the state court system stemmed from environmental and wildlife/animal crime. This supports the general argument that such cases are rarely detected, investigated, and criminally charged. Based on precision matching to other (non-environmental) offense types, environmental cases had more probation, slightly less intensive probation, and substantially

less prison. Therefore, environmental offenders (including wildlife/animal offenders) received generally more lenient sanctions, a greater proportion of probation-based sentences, and lower probabilities of incarceration-based sanctions. Further, environmental cases were most often paired on similarity with driving with a revoked license, grand theft (valued less than \$5,000), and drug possession. Variables such as sex, race, prior criminal record, trial vs. plea bargain, and case severity scores were used as control variables.

Again examining environmental crime at the state-level, Lynch (2019) explored green crime in Fulton county, Georgia. Based on enforcement data collected by the state of Georgia from 1998-2014, Lynch (2019) examined the distribution of environmental crimes in Fulton County across 14 enforced offense categories and the changes in enforcement of environmental crimes<sup>14</sup> in the county over time. The overall number of cases tried by the country was small – averaging about 55 cases per year from 1998 to 2014; the corresponding rate of offending would suggest that environmental crime is 125 times less prevalent than street/traditional crime. The Underground Storage Tank Act accounted for 37.7% of all cases and 30.2% of all violations; this was followed by the Motor Vehicle Inspection Act (MVIA). Punishments for these crimes involved small financial penalties, and secondarily, permit or license suspensions.

In 2021, Lynch (2021) published similar research for the state of Louisiana, examining cases from 2004-2014. Much like the previous studies have illuminated, the results of this work indicated that environmental punishments were rare, and that a handful of cases significantly skewed results; when these cases were omitted, criminal punishments for environmental crime were deemed lenient. Most cases received probation and/or a monetary penalty.

## 2. Research Questions and Corresponding Hypotheses

This study aimed to contribute to the body of research performed in this arena in an effort to better understand the handling of environmental crimes federally tried in the US. Specifically, it involved analyzing environmental crime sentencing patterns, comparing outcomes to other primary offense types at the US federal level. In order to comprehensively investigate this issue, both individual and organizational environmental crime offenders were examined. Environmental crime in the United States currently includes both pollution and wildlife-related offenses (see **Appendix 1** for a list of federal environmental crimes, by statute).

13. APPS = Act to Prevent Pollution from Ships; BGEPA = Bald and Golden Eagle Protection Act; CAA = Clean Air Act; CSA = Conservation Act; CWA = Clean Water Act; CERCLA (Superfund) = Comprehensive Environmental Response and Liability Act; ESA = Endangered Species Act; FIFRA = Federal Insecticide, Fungicide and Rodenticide Act; HMTA = Hazardous Materials Transportation Act; LPTCA = Lead Paint Training and Certification; MAPA = Marine Animal Protection Act; MARPOL = International (MARPOL) Protocol Concerning the Prevention of Pollution From Ships; MBTA = Migratory Bird Treaty Act; MPSRA = Marine Protection, Research and Sanctuaries Act; NHTSA = National Highway Transportation Safety Act; OPA = Oil Pollution Act; PTSA = Port and Tanker Safety Act; PWA = Port and Waterways Act; RCRA = Resource Conservation and Recovery Act; RHAA = River and Harbors Appropriation Act; SDWA = Safe Drinking Water Act; TSCA = Toxic Substances Control Act; USMA = United States Military Act.

14. Air Quality Control, Asbestos Safety, Comprehensive Solid Waste, Erosion and Sediment, Hazardous Site Response, Hazardous Waste Management, Lead Poisoning Prevention, Radiation Control, Safe Dams, Safe Drinking Water, Voluntary Remediation, Motor Vehicle Inspection, Underground Storage Tank, Water Quality Control

## 2.1 Individual offenders

For *non-violent felonies* settled via *guilty plea* in 2018, controlling for offense level (classified into zones) and offender variables of age, sex, race, and criminal history, this study aimed to determine how offense type corresponds with the case outcomes, posing the following hypotheses:

$H_1$ : In federal courts, environmental crimes will be treated differently from other primary offense types when involving individual offenders

$H_0$ : Environmental crimes will not be treated differently from other primary offense types

## 2.2 Organizational offenders

For organizational crimes settled via *guilty plea* between 2016 and 2018, with *no applied criminal histories*, this study aimed to determine how offense type corresponded with the case outcomes, posing the following hypotheses:

$H_1$ : In federal courts, environmental crimes will be treated differently from other primary offense types when involving organizational offenders

$H_0$ : Environmental crimes will not be treated differently from other primary offense types

## 3. Methods

The United States Sentencing Commission (USSC) provides public access to non-confidential sentencing information on the basis of the Sentencing Reform Act of 1984. Based on this act, the USSC shall:

1. “establish sentencing policies and practices for the Federal criminal justice system...that reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process” (28 U.S.C. 991(b)(1)(C); and
2. “serv[e] as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing patterns” (28 U.S.C. 995(a)(12)(A) (USSC, 2018).

The datasets made available under this act were retrieved from [www.ussc.gov](https://www.ussc.gov)<sup>15</sup>. For the purpose of this project, data was extracted for both “individual” and “organizational” offenders. To the author’s knowledge, little to no other research on environmental crime has yet to utilize this dataset, which has been highlighted as “neglected” in regard

to environmental crime analysis by other academics, such as O’Hear (2004).

## 3.1 Individual offenders

The Commission’s *individual* datafiles provides “information on the sentences imposed in cases involving individuals. In these datafiles the individual is the unit of analysis” while that of organizations provides “information on the sentences imposed in cases involving organizational offenders (i.e., corporations, partnerships, and other entities having a legal existence separate from the individuals having an interest in them). In these datafiles the organization is the unit of analysis”. The dataset of individuals for 2018 (the most recent year available at the time of the study) consisted of 69,426 cases. These cases were associated with 186 variables, descriptions of which are available in the US Sentencing Commission’s Codebook (USSC, 2020). Of these variables (many of which did not apply to all offense types), the following were retained: offense type (“OFFGUIDE”), sentence imposed (“SENTIMP”), type of financial penalty (“TYPEMONY”), age of the offender (“AGE”), case type (“CASETYPE”), case disposition (“DISPOSIT”), sex of the defendant (“MONSEX”), race of the defendant (“MONRACE”), defendant’s criminal history (“XCRHISSR”), and the case zone (“ZONE”); see **Appendix 2** for a full description of these variables and their coding instruments.

For individual offenders, data was filtered for:

- a. Felonies, which comprised 94.67% of the full dataset. The remaining 4.23% were Misdemeanors A, and 1.1% were missing.
- b. Guilty pleas, which comprised 97.33% of the full dataset. The remaining 2.47% were jury trial, while nolo contendere, trial by judge or bench trial, guilty plea and trial, and missing cases made up <1% each.
- c. Non-violent offenses, which comprised 94.21% of the database. Violent offenses made up 5.79%; these included as arson, assault, kidnapping, manslaughter, murder, robbery, and sex abuse. These offenses were classified as “violent” based on the FBI Uniform Crime Report’s definition of “violent crime”.<sup>16</sup>

After filtering, the dataset of individual offenders had 60,393 cases for analysis.

15. <https://www.ussc.gov/research/datafiles/commission-datafiles>

16. “The descending order of UCR violent crimes are murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault, followed by the property crimes of burglary, larceny-theft, and motor vehicle theft. Although arson is also a property crime, the Hierarchy Rule does not apply to the offense of arson. In cases in which an arson occurs in conjunction with another violent or property crime, both crimes are reported, the arson and the additional crime.” <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/violent-crime>

### 3.2 Organizational offenders

The dataset of organizations was extracted for 2016 through 2018 (although the original year of interest was 2018, as seen with the individual-level cases) due to the significantly smaller sample size per year, which inhibited the ability to properly analyze the data. For organizational offenders, there were no violent crimes to filter out, nor was there any designation of felonies versus other case types, as seen with the individual offenders. Data was, however, filtered for guilty pleas. Guilty pleas comprised 94.75% of the dataset with no missing values; jury trials comprised the remaining 5.25% of cases. The dataset was then filtered for criminal history of the organization, as 99.1% of the cases had no applied criminal history. Once filtered, the full dataset was reduced from an original 362 cases to 343 cases.

There was an original attempt to include a set of control variables in the ordinal regression for organizational offenses. These included offense level, ownership structure of the organization, and the number of employees. Unfortunately, significant missingness forced the omission of these variables in the model. Fine category (“FINECAT”) was the outcome variable.

### 3.3 Recoding

Due to data distributions/skewness, certain variables were recoded. Appendix 2 contains the original and recoded data categorizations. Initial exploration of the individual-level data brought to light the heavily skewed distributions of select variables, which stimulated their recoding into fewer categories. For instance, the two dependent variables were recoded into fewer categories – the imposed sentence was recoded from five into two categories (prison = 1, non-prison = 0); the type of monetary penalty was also recoded from five into two categories (monetary = 1; non-monetary = 0). Race was also recoded from approximately nine into two attributes (white = 1, non-white = 0) due to the data distribution. For the organizational-level data, the primary offense type was recoded into two attributes (environmental = 1, non-environmental = 0).

## 4. Results

### 4.1 Analysis 1: Individual offenders

**Table 1** presents the descriptive statistics for all variables associated with individual offenders across *all primary offense types*. Offenders in the 2018 individual dataset were heavily male (87.2%), white (75.5%), with a level I criminal history (44.82%) (**Table 1**). The average age amongst offenders was approximately 36 years (min = 18, max = 87). The majority of

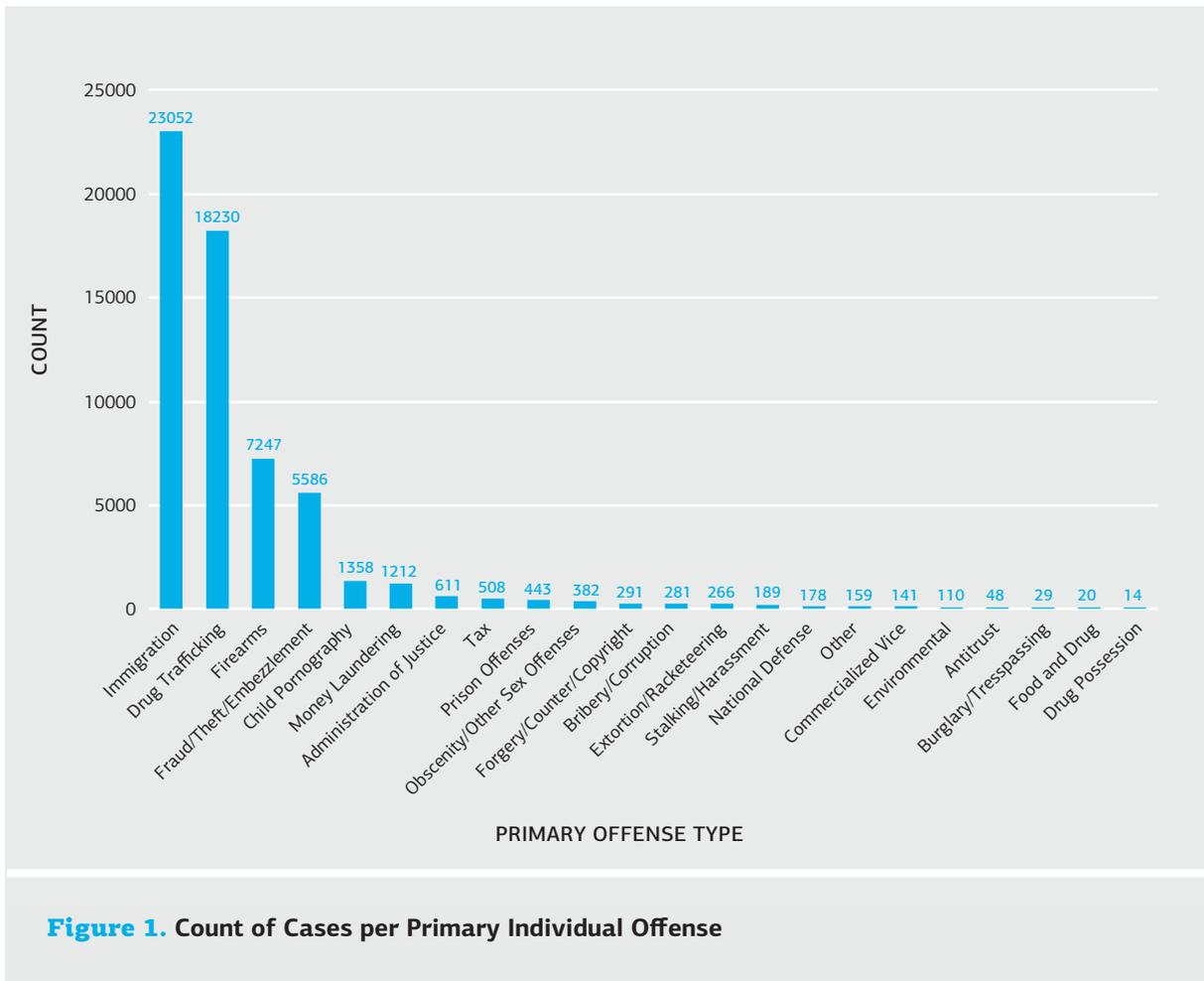
**Table 1. Descriptive statistics for individual offenders (all primary offense types)**

Independent Variables	N	Percent
<b>Sex</b>		
Male	52,638	87.2%
Female	7,732	12.8%
<b>Race</b>		
White	45,564	75.5%
Non-white	14,829	24.5%
<b>Criminal History<sup>18</sup></b>		
I	26953	44.82%
II	8761	14.57%
III	9904	16.47%
IV	5841	9.71%
V	3389	5.64%
VI	5289	8.79%
<b>Zone</b>		
A	8318	13.91%
B	7427	12.42%
C	5157	8.62%
D	38879	65.04%
<b>Age (Years)</b>		
Min		18
Median		35
Mean		36.43
Max		87
<b>Dependent Variables</b>		
<b>Sentence Imposed</b>		
0 – No prison or confinement	4595	7.61%
1 – Prison or confinement	55798	92.39%
<b>Type of Monetary Punishment</b>		
0 – No monetary penalty	50,519	83.65%
1 – Monetary penalty	9874	16.35%

offenses were classified as Zone D<sup>17</sup>. Regarding outcome variables, sentence imposed consisted of 92.39% prison or confinement and 7.61% no prison or confinement, while type of monetary penalty consisted of 83.65% no monetary penalty and 16.35% monetary penalty. Both these outcome variables will be considered as over-dispersed for analytical purposes.

17. Zone is determined on the basis of offense level. Zone A is 1-8; Zone B is 9-11; Zone C is 12-13; Zone D is 14-43. Full details on determining zones can be found in the US Sentencing Commission Sentencing Guidelines (<https://www.ussc.gov/guidelines>).

18. Criminal history is a points-based calculation. Level I is 0-1 points; II is 2-3 points; III is 4, 5, or 6 points; IV is 7, 8, or 9 points; V is 10, 11, or 12 points; while VI is 13 or more points. Full details on calculating points can be found in the US Sentencing Commission Sentencing Guidelines (<https://www.ussc.gov/guidelines>).



**Figure 1. Count of Cases per Primary Individual Offense**

Twenty-two primary offenses<sup>19</sup> were included in the analysis as they both had associated data for the year 2018 and qualified as non-violent offenses. Immigration cases dominated the primary offenses with just over 38% (n=23,052) of 2018 cases. These were followed by drug trafficking cases (n=18,230, 30.20%), and firearms (n=7,247, 12.01%). All other offense types comprised less than 10% of total cases, with 15 offense types each making up less than 1% of the total. The offense type of interest – environmental – had 110 cases, or 0.18% of the 2018 caseload. **Figure 1** contains the full breakdown of individual offense types.

In **Table 2**, descriptive statistics are presented for the environmental cases (contrasting with the above data on all primary offense types presented in **Table 1**). Over 97% of cases involved male offenders, with nearly 71% of all

offenders being white. The gross majority also had been assigned a level I criminal history. The mean and median age of offenders was approximately 48 years. Cases were seen to increase in frequency across zones, with zone A having 15 cases, zone B having 24, zone C 33, and zone D 35. As for outcomes, 61.8% of cases saw no prison or confinement, while 64.5% saw no monetary penalties. Differences in outcomes begin to emerge between environmental cases and the general sentencing trends from these descriptive analyses.

Two binomial regression models were run in R in order to understand how primary offense type related to the two sentencing outcomes of interest – the sentence imposed (i.e., prison and/or confinement or not) and type of monetary penalty (i.e., monetary penalty or not). For both models, environmental offenses were made the reference category. The offender-level variables criminal history, age, sex, and race were used as control variables along with the case-level variable zone. In both models, 637 cases were excluded due to missingness. Prior to running these models correlations were run across all variables (see **Appendix 4**).

19. Administration of Justice, Antitrust, Bribery/Corruption, Burglary/Trespassing, Child Pornography, Commercialized Vice, Drug Possession, Drug Trafficking, Environmental, Extortion/Racketeering, Firearms, Food and Drug, Forgery/Counterfeit/Copyright, Fraud/Theft/Embezzlement, Immigration, Individual Rights, Money Laundering, National Defense, Obscenity/Other Sex Offenses, Stalking/Harassing, Tax.

**Table 2. Descriptive statistics for individual offenders (environmental cases only)**

Independent Variables	N	Percent
<b>Sex</b>		
Male	107	97.3%
Female	3	2.7%
<b>Race</b>		
White	78	70.9%
Non-white	32	29.1%
<b>Criminal History<sup>20</sup></b>		
I	86	78.2%
II	9	8.2%
III	7	6.4%
IV	3	2.7%
V	2	1.8%
VI	0	0%
<b>Zone</b>		
A	15	2.7%
B	24	13.6%
C	33	30.0%
D	35	31.8%
<b>Age (Years)</b>		
Min		18
Median		48
Mean		48.29
Max		77
<b>Dependent Variables</b>		
<b>Sentence Imposed</b>		
0 – No prison or confinement	68	61.8%
1 – Prison or confinement	42	38.2%
<b>Type of Monetary Punishment</b>		
0 – No monetary penalty	71	64.5%
1 – Monetary penalty	39	35.5%

Since the median deviance residual was close to zero in both regression models, the models were not considered biased in either direction (i.e., the outcome is neither over- nor under- estimated). The null deviance results for both models (sentence model – 32313 on 59755 degrees of freedom; monetary penalty model – 53021 on 59755 degrees of freedom) is relatively high, which indicates that it makes sense to use a number of predictors in the final model. For a well-fitting model, residual deviances should

20. Criminal history is a points-based calculation. Level I is 0-1 points; II is 2-3 points; III is 4, 5, or 6 points; IV is 7, 8, or 9 points; V is 10, 11, or 12 points; while VI is 13 or more points. Full details on calculating points can be found in the US Sentencing Commission Sentencing Guidelines (<https://www.ussc.gov/guidelines>).

be close to the degrees of freedom; this is not entirely the case for these models. The residual deviances (sentence model – 24072 on 59722 degrees of freedom; monetary penalty model – 29051 on 59722 degrees of freedom) are not close to the degrees of freedom. This could be the result of overdispersion, which is indeed seen with both outcome variables. Due to the fact that both models were analyzing dichotomous outcomes, this was not seen as something requiring model alteration. Both models had appropriately low Fisher Scoring iterations (7 and 6, respectively). See **Appendix 5** for these preliminary outputs in greater detail.

**Table 3** contains the full regression results for individual offenders in terms of both the sentenced imposed and the type of monetary penalty across all primary offense types. In terms of sentence imposed (prison or non-prison), environmental crimes were most similar to (i.e., not significantly different from) drug possession, food and drug offenses, forgery/counterfeiting/copyright, and individual rights offenses. Regarding monetary penalty, environmental crimes were most similar to bribery/corruption, burglary/trespassing, drug possession, and forgery/counterfeiting/copyright offenses. Therefore, two offenses appeared most similar to environmental crimes across both outcome variables – drug possession and forgery/counterfeiting/copyright infringement.

## 4.2 Analysis 2: Organizational offenders

**Table 4** contains the descriptive statistics for organizational offenses. Due to significant missingness across the dataset, only the offense type and fine category could be used in the ordinal regression model. Approximately 48.5% of cases resulted in a fine of \$0-99,999; 24.71% resulted in a fine of \$100,000-999,999 and another 26.76% resulted in the maximum fine category of \$1,000,000 or more. Nearly three quarters of cases in the dataset were non-environmental, with the remaining quarter being environmental. **Figure 2**

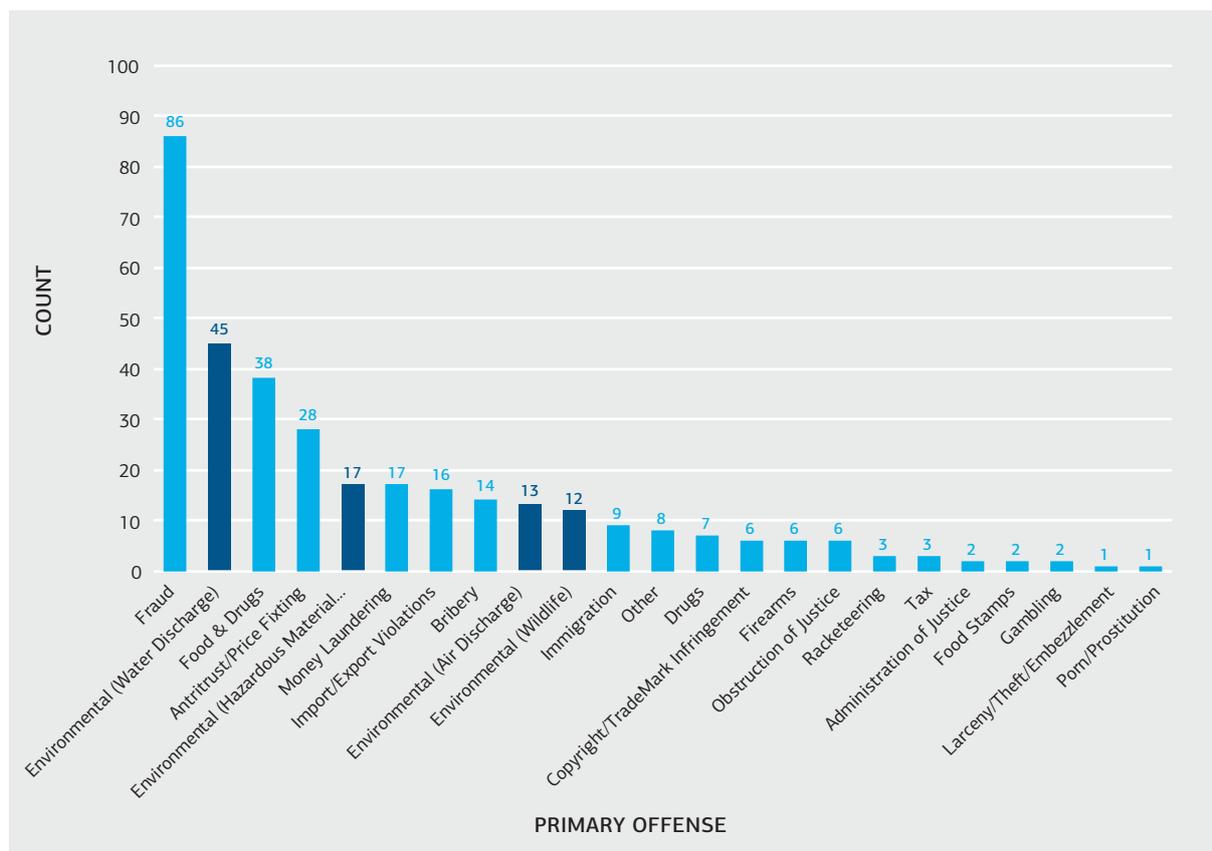
**Table 4. Descriptive statistics for organizational offenses (all primary offense types)**

Variables	N	Percent
<b>Fine Category</b>		
\$0-99,999	166	48.52%
\$100,000-999,999	86	24.71%
\$1,000,000 or more	91	26.76%
<b>Offense</b>		
Non-environmental	256	74.41%
Environmental	87	25.59%

**Table 3. Fixed Effects Model of the Natural Log of the Homicide Rate**

	SENTENCE IMPOSED				TYPE OF MONETARY SENTENCE			
	Est.	Std. Error	z value	Pr(> z )	Est.	Std. Error	z value	Pr(> z )
(Intercept)	1.301	0.232	5.611	2.01e-08 ***	-0.321	0.223	-1.436	0.151
Criminal History I	2.015	0.129	15.569	< 2e-16 ***	-0.583	0.051	-11.462	< 2e-16 ***
Criminal History II	-0.157	0.117	-1.344	0.179	0.264	0.046	5.686	1.30e-08 ***
Criminal History III	0.213	0.121	1.754	0.079418.	-0.034	0.054	-0.639	0.523
Criminal History IV	-0.012	0.118	-0.102	0.919	-0.017	0.056	-0.293	0.770
Criminal History V	0.229	0.103	2.232	0.026*	-0.099	0.052	-1.874	0.061.
Age	-0.011	0.002	-7.202	5.93e-13 ***	0.014	0.001	10.098	< 2e-16 ***
Sex	-0.874	0.041	-21.557	< 2e-16 ***	0.259	0.043	5.993	2.06e-09 ***
Race	0.206	0.043	4.803	1.57e-06 ***	-0.278	0.036	-7.758	8.60e-15 ***
Zone (L)	1.477	0.045	32.985	< 2e-16 ***	0.869	0.055	15.714	< 2e-16 ***
Zone (Q)	0.633	0.039	16.205	< 2e-16 ***	-0.481	0.053	-9.084	< 2e-16 ***
Zone (C)	0.083	0.043	1.929	0.054	-0.038	0.056	-0.690	0.490
Administration of Justice [1]	0.942	0.239	3.946	7.95e-05 ***	-1.751	0.234	-7.497	6.54e-14 **
Antitrust [2]	-0.865	0.419	-2.063	0.039091 *	2.828	1.034	2.735	0.006 **
Bribery/Corruption [5]	0.924	0.265	3.489	0.000485 ***	-0.435	0.248	-1.756	0.080.
Burglary/Trespass [6]	1.893	0.833	2.274	0.022976 *	0.922	0.489	1.882	0.060.
Child Pornography [7]	3.504	0.353	9.918	< 2e-16 ***	-0.840	0.221	-3.794	0.000 ***
Commercialized Vice [8]	1.022	0.296	3.457	0.000547 ***	-1.455	0.281	-5.184	2.17e-07 ***
Drug Possession [9]	0.467	0.719	0.649	0.517	-0.067	0.591	-0.113	0.910
Drug Trafficking [10]	2.244	0.220	10.201	< 2e-16 ***	-3.034	0.216	-14.045	< 2e-16 ***
Extortion/Racketeering [12]	1.381	0.311	4.438	9.06e-06 ***	-1.281	0.251	-5.108	3.25e-07 ***
Firearms [13]	1.290	0.224	5.749	8.98e-09 ***	-2.635	0.219	-12.046	< 2e-16 ***
Food and Drug [14]	-0.120	0.544	-0.220	0.825	1.214	0.617	1.969	0.049 *
Forgery/Counter/Copyright [15]	0.311	0.267	1.166	0.244	0.071	0.247	0.288	0.773
Fraud/Theft/Embezzlement [16]	1.124	0.218	5.160	< 2e-16 ***	1.172	0.216	5.422	5.91e-08 ***
Immigration [17]	3.131	0.219	14.280	< 2e-16 ***	-4.230	0.219	-19.287	< 2e-16 ***
Individual Rights [18]	0.822	0.457	1.799	0.072 .	-1.134	0.397	-2.857	0.004 **
Money Launder [21]	1.302	0.234	5.565	2.62e-08 ***	-1.322	0.222	-5.954	2.62e-09 ***
National Defense [23]	1.116	0.326	3.426	0.001 ***	-2.557	0.308	-8.302	< 2e-16 ***
Obscenity/Other Sex Offenses [24]	1.715	0.356	4.820	1.44e-06 ***	-3.136	0.301	-10.428	< 2e-16 ***
Prison Offenses [25]	2.804	0.398	7.041	1.91e-12 ***	-3.237	0.314	-10.302	< 2e-16 ***
Stalking/Harassing [28]	1.589	0.346	4.599	4.25e-06 ***	-1.606	0.272	-5.903	3.58e-09 ***
Tax [29]	0.532	0.238	2.234	0.026 *	1.803	0.287	6.287	3.23e-10 ***
Other [30]	0.645	0.296	2.179	0.029 *	-1.137	0.282	-4.035	5.45e-05 ***

Note: Blue highlights indicate non-significant values in terms of the reference category of environmental crime for individual offenders



**Figure 2. Count of Cases per Primary Organizational Offense 2016-2018**

Note: Dark blue columns highlight all environmental offenses that were collapsed into one category for the purpose of analysis

contains the count of each case type prior to recoding (i.e., merging the four environmental case types into one). See **Appendix 4** for correlation charts amongst all variables included in the following ordinal regression model.

An ordinal logistic regression was run in R (using the “polr” package) due to the ordinal nature of the outcome variable: fine category. Environmental versus non-environmental offense were associated with an expected increase in the odds of receiving a higher fine category, with a log of the odds of 0.6568. This coefficient as an odds ratio is 1.9285. Therefore, for environmental offenses, the odds of receiving a higher fine (3 or 2) is 1.93 times that of non-environmental cases. See Appendix 5 for full ordinal regression results.

## 5. Discussion

This study examined the federal handling of environmental crimes in the US by analyzing the sentencing patterns of such crimes in comparison to other primary offense types. Both individual and organizational wildlife crime offenders were included but analyzed separately, due to variable

availability. The overall goal of this analysis was to establish a baseline of environmental crime prosecution in the US, adding quantitative substance to the low-risk/high-reward discussions surrounding the engagement in such crimes, and providing insight for progress as it pertains to such crimes in the national and international arenas.

Comparing twenty-two primary offenses associated with individual federal offenders, binomial regression models indicated that environmental crimes associated with individual offenders were treated most similarly to drug possession and forgery/counterfeiting/copyright infringement when analyzing both whether or not a prison sentence or monetary penalty was issued. As for organizational offenders, an ordinal regression suggested that environmental crimes were more likely to receive higher fines than non-environmental offenses.

Based on this evaluation, environmental crimes committed by individuals are most similarly sentenced (based on prison and monetary penalty assignment) to crimes traditionally classified into two major crime categories: white collar crime and street crime. Fraud/forgery/

counterfeiting are conceived to be white collar crimes, “characterized by deceit, concealment, or violation of trust and are not dependent on the application or threat of physical force or violence. The motivation behind these crimes is financial—to obtain or avoid losing money, property, or services or to secure a personal or business advantage” (<https://www.fbi.gov/investigate/white-collar-crime>). Drug possession, on the other hand, is traditionally classified as a street crime, which is very broadly defined as a criminal offense in a public place.

Prior research has suggested that environmental crime bears similarity to white-collar offenses, as seen in the results of the current study. In their discussion of environmental crime, Shover and Routhe (2005) cite the US Sentencing Commission (the data source for the current study), stating that “crimes labeled as ‘environmental’ may be regarded as white-collar crimes, although unlike conventional white-collar crimes, the ‘victims’ are often not only people but also wildlife and habitats or endangered species”. Huisman and van Erp (2013) also argue that ‘green crime’ (i.e., environmental crime) bears resemblance to white collar offenses, specifically referring to environmental crime in developed versus developing countries (also seen in this analysis of US-based environmental crime). Huisman and van Erp (2013) support this claim, setting forth that environmental crimes in developed (versus developing) countries occur in a regulated corporate context with prevention possibilities and high levels of environmental awareness. Finally, Lynch (2020) adds to this family of claims with a legal perspective, contributing that “unlike street crimes [...] green crimes are defined in administrative, regulatory, and civil laws, as well as criminal laws, and at various levels of governance”. These works, among others, therefore, provide support for the present finding that environmental crimes resemble forgery/counterfeiting/copyright, or white-collar crime, even if not similar to all white-collar crimes observed in the dataset (i.e., fraud/theft/embezzlement, money laundering). It should be noted, however, that scarce research focusing on wildlife offenders – a subclass of environmental offenders – has classified wildlife-related crimes as “white collar” (Nurse, 2011).

The public’s perception of both white-collar crime and drug possession have notably changed over recent years. Piquero *et al.* (2008), for instance, argue that the public’s perception of white-collar crime has evolved from a category of offenses not taken very seriously to a category perceived to be marginally more serious than street crime. Drug-possession has also seen major changes in its perceived severity, highlighted by a recent wave of recent depenalization and decriminalization efforts around the world (i.e., Arredondo *et al.*, 2018; Bird *et al.*, 2020; Laqueur, 2015; Maier *et al.*, 2017; Stevens *et al.*, 2019). Given these potentially diverging perceptions, the question becomes whether our views of environmental crime align with these

offense types, or whether this resemblance should rather lay the foundation for improvement.

In terms of the organizational monetary penalties, previous research has provided insights on how fines impact organizational compliance in regard to environmental crime. Barrett *et al.* (2018) longitudinally analyzed the impact of the dollar amount of fines on organizational (i.e., “major facilities”) compliance with environmental laws in the state of Michigan. Their results indicated that there were few changes to long-term compliance behavior. In other words, monetary penalties did not significantly deter environmental noncompliance in the long run. The authors therefore concluded that monetary penalties are unlikely to be an effective lasting solution to environmental crime. The results of the present study, however, suggest that organizational offenders are more likely to receive higher fines than non-environmental offenders. These higher fines might be reflective of the perceived severity of organizationally committed environmental crimes, even if in practice, such fines don’t lead to long term change.

## 5.1 Limitations

This research was limited by the availability of US Sentencing Commission data, and particularly, its completeness. While more complex analyses were originally attempted, data missingness was restrictive. For instance, aside from the aforementioned attempt to include more variables in both analyses, there was also an effort to quantitatively compare the individual and organizational offenders to one another on the basis of sentencing outcomes. Future research in this arena could delve into other variables, where applicable and available, as well as quantitatively compare and contrast the individual and organizational environmental offenders outcomes.

Efforts were also initially made to analytically disaggregate environmental crimes (such as air and water offenses) from wildlife offenses. The data on organizational offenders provides this breakdown. “Environmental crime” is broken down into four groupings, highlighting the broad range of crimes that fall within the scope of environmental law (i.e., water discharge, hazardous materials, air discharge, and wildlife). Individual offender data, however, lacks this nuance. Given that this nuance exists and that, politically, environmental crime has seen initiatives targeting these distinct elements (i.e., wildlife-specific initiatives), it would be beneficial to future analyses if individual offenses reported by the US Sentencing Commission reflected the categorizations seen amongst organizational offenders. Wildlife crime, for instance, is of increasing international focus and is discussed distinctly from other environmental offenses, such as air or water pollution. Understanding the trends in wildlife sentencing for individuals would be critical

to understand, for example, the effects of initiatives such as Executive Order 13648 (Combatting Wildlife Trafficking).

## 6. Conclusions

Enhancing the rule of law and governance surrounding biodiversity and natural resources is argued to contribute to the fundamental process towards building more inclusive societies based on justice and democratic decision-making. These efforts have been spearheaded by the United Nation's (UN) Sustainable Development Goals, which were adopted formally by UN member states in 2015 in an effort to promote peace and prosperity for the people and planet. Seventeen goals were developed as part of the 2030 Agenda for Sustainable Development, ranging from reducing poverty (Goal 1) and hunger (Goal 2) through improving the quality of education (4); building sustainable cities and communities (Goal 11); and promoting peace, justice, and strong institutions (Goal 16) (<https://sdgs.un.org/goals>). Goals 14, 15, and 16 are particularly relevant on the national and international scales as they pertain to environmental crime and the effectiveness of our court systems in effectively handling related offenses. Goal 14 (life under water) aims to "conserve and sustainably use the oceans, seas and marine resources for sustainable development". Goal 15 (life on land) strives to "protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss". Goal 16 promotes equal access to justice for all; the reduction of illicit flows and organized crime; and responsive, inclusive, participatory and representative decision-making at all levels (<https://www.cbd.int/development/sdg16/>; <https://sdgs.un.org/goals>). To one degree or another, all three of these goals (14, 15, and 16) rely on legal systems to reach their objectives.

Recent efforts have been made by the US to combat environmental crime. This includes the issuance of Executive Orders (EO) 13648 (Combatting Wildlife Trafficking) and 13990 (Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis). EO 13648, published in 2013, specifically targets wildlife trafficking, promoting the assistance of foreign nations in building capacity to combat wildlife trafficking and working with national and international partners to combat transnational organized crime (The White House, 2014, 30). As of 2021, EO 13990 directs Federal agencies to "review, and take action to address, Federal regulations [...] that conflict with national objectives to improve public health and the environment [...]" (The White House, 2021). These two EOs highlight the US's progress towards the UN SDGs. In recent years, the US has also seen the emergence of environmental courts, which reflect a more comprehensive move towards fulfilling the 2030 Agenda for Sustainable Development (for relevant research on environmental courts, see Preston, 2014; Pring and Pring, 2009, 2010, 2016a, 2016b; Robinson, 2012; Smith, 2018; Walters and Westerhuis, 2013).

As for establishing baseline knowledge upon which to build in regard to national and international sentencing of environmental crimes, it is hoped that the understanding of which primary offenses environmental crimes are currently sentenced most similarly to provides a contribution to the larger discussion on the topic of environmental crime prevention and related justice issues. The question now stands whether the outcomes of this study reflect our current perceptions of such crimes, or rather provide baselines from which to achieve progress.



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# Appendix

## Appendix 1. Federal Environmental Crimes, by Statute

### Pollution Crimes

- Act to Prevent Pollution from Ships (APPS), 33 U.S.C. §§ 1901-1912
- Atomic Energy Act, 42 U.S.C. §§ 2011-2296
- Clean Air Act (CAA), 42 U.S.C. §§ 7401-7671
- Comprehensive Environmental Response, Compensation & Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675
- Deepwater Port Act, 33 U.S.C. §§ 1501-1524
- Emergency Planning and Community Right to Know Act (EPCRA) (also known as SARA Title III), 42 U.S.C. §§ 11001-11050
- Energy Supply and Environmental Coordination Act, 15 U.S.C. §§ 791-798
- Federal Hazardous Material Transportation Law, 49 U.S.C. §§ 5101-5127
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136-136y
- Federal Water Pollution Control Act (FWPCA)(also known as the Clean Water Act (CWA)), 33 U.S.C. §§ 1251-1387
- Noise Control Act, 42 U.S.C. §§ 4901-4918, 42 U.S.C. § 4910 (criminal provision)
- Ocean Dumping Act (ODA), 33 U.S.C. §§ 1401-1445
- Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §§ 1331-1356
- Ports and Waterways Safety Act, 33 U.S.C. §§ 1221-1236
- Rivers and Harbors Appropriations Act, 33 U.S.C. §§ 401-467
- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901- 6992k
- Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f-300j-26
- Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. §§ 1201-1328
- Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692

### Wildlife Crimes

- Endangered Species Act, 16 U.S.C. § 1531
- Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. § 668
- Migratory Bird Treaty Act (MBTA), 16 U.S.C. § 707
- The Lacey Act, 16 U.S.C. § 3372

Retrieved from <https://www.justice.gov/enrd/federal-environmental-crimes-statute>

# Appendix

## Appendix 2. Individual Cases: Description of Variables Used

Variable	Description	Code	Re-Code
<b>Independent Variable</b>			
OFFGUIDE	Primary type of crime for the case generated mainly from the primary guideline and then the count of conviction with the highest statutory maximum. See OFFTYPE2 for offense types used in USSC Sourcebook FY1999-FY2009 and OFFTYP2 for offense types used in USSC Sourcebook FY2010-FY2017. This field available FY2018-present. Commission publications use OFFGUIDE starting in FY2018. FORMAT: OFFGUIDE.	OFFGUIDE 1 = Administration of Justice 2 = Antitrust 3 = Arson 4 = Assault 5 = Bribery/Corruption 6 = Burglary/Trespass 7 = Child Pornography 8 = Commercialized Vice 9 = Drug Possession 10 = Drug Trafficking 11 = Environmental 12 = Extortion/Racketeering 13 = Firearms 14 = Food and Drug 15 = Forgery/Counter/Copyright 16 = Fraud/Theft/Embezzlement 17 = Immigration 18 = Individual Rights 19 = Kidnapping 20 = Manslaughter 21 = Money Launder 22 = Murder 23 = National Defense 24 = Obscenity/Other Sex Offenses 25 = Prison Offenses 26 = Robbery 27 = Sex Abuse 28 = Stalking/Harassing 29 = Tax 30 = Other . = Missing	N/A
<b>Dependent Variables</b>			
SENTIMP	Indicates what type of sentence was given (prison, probation, probation plus alternatives, or prison/split sentence). Alternatives with values of 97 are included in categories with alternatives. FORMAT: SENTIMP.	<b>0 = No Prison/Probation (Fine Only)</b> 1 = Prison Only (No Alternatives) 2 = Prison + Confinement Conditions (Alternatives, Including Zone C Split Sentences) <b>3 = Probation + Confinement Conditions (Alternatives)</b> <b>4 = Probation Only</b> * = Missing, Indeterminable, or Inapplicable	<b>0 = No prison</b> 1 = Prison (i.e. prison only or prison + confinement)
TPEMONEY	Indicates whether a fine/cost of supervision or restitution was ordered. Compare to RESTDUM, ECONDUM, and FINECDUM. See Appendix B in this codebook for more information about USSC sentencing variables. FORMAT: TPEMONEY	<b>1 = No Fine/Cost of Supervision, Nor Restitution Ordered</b> 2 = Restitution Ordered, No Fine/Cost of Supervision 3 = Fine/Cost of Supervision Ordered, No restitution 4 = Both Fine/Cost of Supervision and Restitution Ordered * = Missing	<b>0 = No monetary penalty</b> 1 = Monetary penalty

Variable	Description	Code	Re-Code
<b>Control and Filtering Variables</b>			
AGE	Identifies the age of the defendant at the time of sentencing. It is generated based on the date of birth provided either in the PSR or at case submission to USSC, and the sentencing date from the J&C.	Range: 15 thru 105 * = Missing/Indeterminable	N/A
CASETYPE	Identifies the type of case. This field is available FY2018-present. FORMAT: CASETYPE.	1 = Felony 2 = Misdemeanor A 3 = Misdemeanor B/C (Should not exist) * = Missing or Indeterminable	N/A
DISPOSIT	Disposition of the defendant's case. Note that if there is information that the case went to trial but it does not specify whether the trial was a jury trial or a bench trial, then USSC assumes jury trial since these are more common. FORMAT: DISPOSIT.	0 = No Imprisonment 1 = Guilty Plea 2 = Nolo Contendere 3 = Jury Trial 4 = Trial by Judge or Bench Trial 5 = Guilty Plea and Trial (>1 Count) * = Missing or Indeterminable	N/A
MONSEX	Indicates the offender's gender. FORMAT: MONSEX.	0 = Male 1 = Female * = Missing, Indeterminable, or Inapplicable	N/A
MONRACE	Offender's race (self-reported to the probation officer). Code 8 is not available prior to FY2007. Code 9 is not available prior to FY2009. NOTE: Hispanic ethnicity is coded in the variable HISPORIG. Race and ethnicity are combined in NEWRACE. FORMAT: MONRACE.	1 = White/Caucasian 2 = Black/African American 3 = American Indian\Alaskan Native 4 = Asian or Pacific Islander 5 = Multi-racial 7 = Other 8 = Info on Race Not Available in Docs (This code only available in FY07 and on) 9 = Non-US American Indians 10 = American Indians Citizenship Unknown * = Missing, Indeterminable, or Inapplicable	0 = Other 1 = White
XCRHISSR	Defendant's final criminal history category (I-VI), as determined by the court. If info is missing from the SOR, then PSR values are used – use SOURCES to choose only SOR values. FORMAT: XCRHISSR.	Range: 1 thru 6 * = Missing, Indeterminable, or Inapplicable	N/A
ZONE	Sentence table group which determines eligibility for probation and alternative prison sentences (See §5B1.1 and §5C1.1). FORMAT: \$ZONE.	A = Zone A B = Zone B C = Zone C D = Zone D " " = Missing	N/A

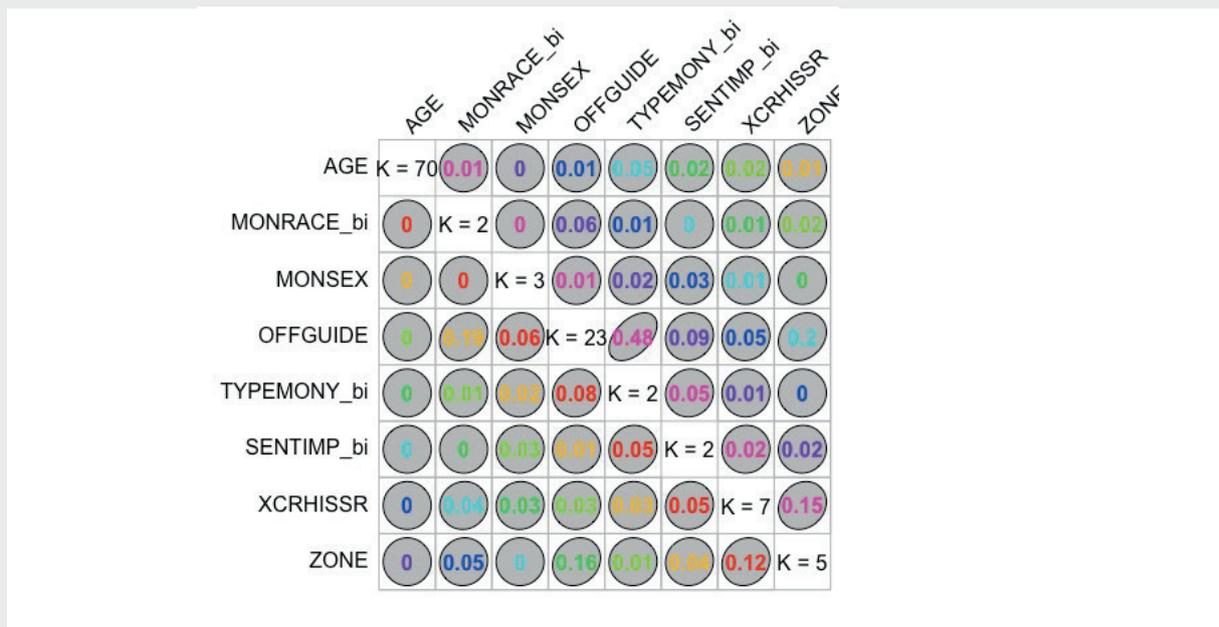
# Appendix

## Appendix 3. Organizational Cases: Description of Variables Used

Variable	Description	Code	Re-Code / Notes
<b>Independent Variable</b>			
PRIMOFF	Primary offense type for the case generated from the count of conviction with the highest statutory fine maximum (in case of a tie, the count with the highest statutory fine minimum is used). When fraud is coded as the primary offense type a subcategory of fraud is coded as of FY2012 (see FRAUDTYPE). Note that since the primary offense type is derived from statutes of conviction it may not match up logically with the primary guideline (or any of the guidelines applied).	0 = 'Administration of Justice' 2 = 'Antitrust/Price Fixing' 3 = 'Archeological Damage' 4 = 'Bribery' 5 = 'Civil Rights' 7 = 'Contraband' 8 = 'Copyright/TradeMark Infringement' 9 = 'Drugs' 10 = ' <b>Environmental (Water Discharge)</b> ' 11 = ' <b>Environmental (Air Discharge)</b> ' 12 = ' <b>Environmental (Hazardous Material Discharge)</b> ' 13 = ' <b>Environmental (Wildlife)</b> ' 14 = 'Equity Skim' 15 = 'Import/Export Violations' 16 = 'Firearms' 17 = 'Food & Drugs' 18 = 'Food Stamps' 19 = 'Forgery' 20 = 'Fraud' 21 = 'Gambling' 22 = 'Immigration' 23 = 'Larceny/Theft/Embezzlement' 24 = 'Motor Vehicle Part Trafficking/Altering ID's and Tags' 25 = 'Money Laundering' 26 = 'Obstruction of Justice' 27 = 'Porn/Prostitution' 28 = 'Racketeering' 29 = 'Tax' 77 = 'Other'	Merged the "environmental" categories to match the individual cases  0 = Non-environmental 10 = Environmental
<b>Dependent Variables</b>			
FINECAT	The total culpability score as reported in the SOR. See §8C2.5 in USSG Manual for more information about the calculation of the culpability score. See CCULPSCO for the computer generated version of this field. Note that CCULPSCO and FCULPSCO may differ if the SOR details a culpability score which does not match the PSR total and the reason for the difference is not documented on the SOR.	1 = \$0 to \$99,999 The dollar category of fine ordered. This amount does not include a 2 = \$100,000 to \$999,999 suspended fine or a suspended portion 3 = \$1,000,000 or More of a fine. See also SUSFNCAT. 4 = Amount Unknown FORMAT: AMN	
<b>Filtering Variables</b>			
DISPOSIT	Disposition of the defendant's case. Note that if there is information that the case went to trial, but it does not specify whether the trial was a jury trial or a bench trial, then USSC assumes jury trial since these are more common.	0 = No Imprisonment 1 = Guilty Plea 2 = Nolo Contendere 3 = Jury Trial 4 = Trial by Judge or Bench Trial 5 = Guilty Plea and Trial (>1 Count) • = Missing or Indeterminable	Same as NEWCVNT

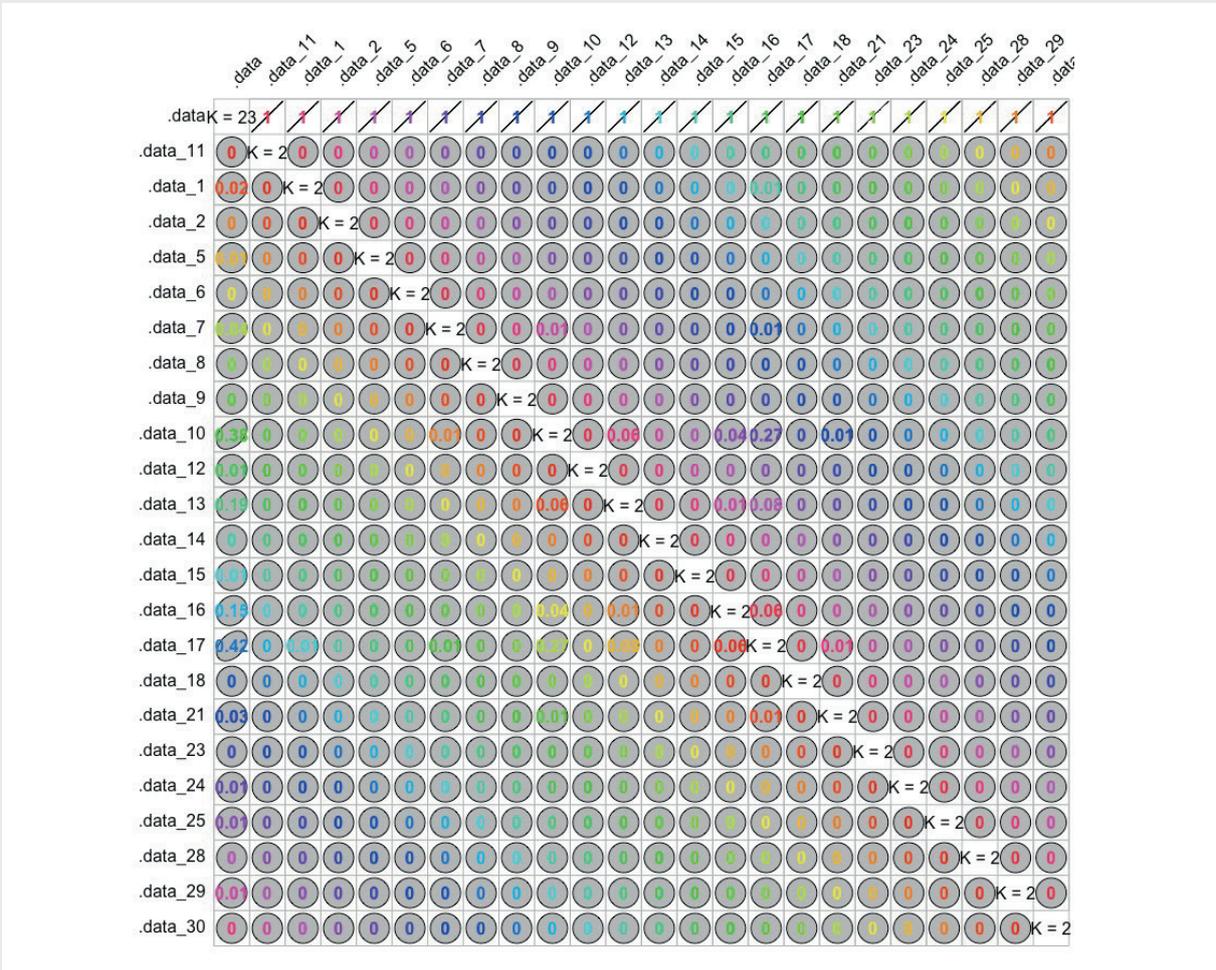
Variable	Description	Code	Re-Code / Notes
<b>Filtering Variables</b>			
HISTORY	Identifies the score for this culpability factor. Prior History is an index which measures previous misconduct that is similar to the instant offense. See USSG §8C2.5(c) for more information.	0 = Not applied 1 = Instant offense <10 years after prior offense 2 = Instant offense <5 years after prior offense • = Missing, Indeterminable, or Inapplicable	99.1% of cases were 0 or missing

**Appendix 4. Correlation Charts**

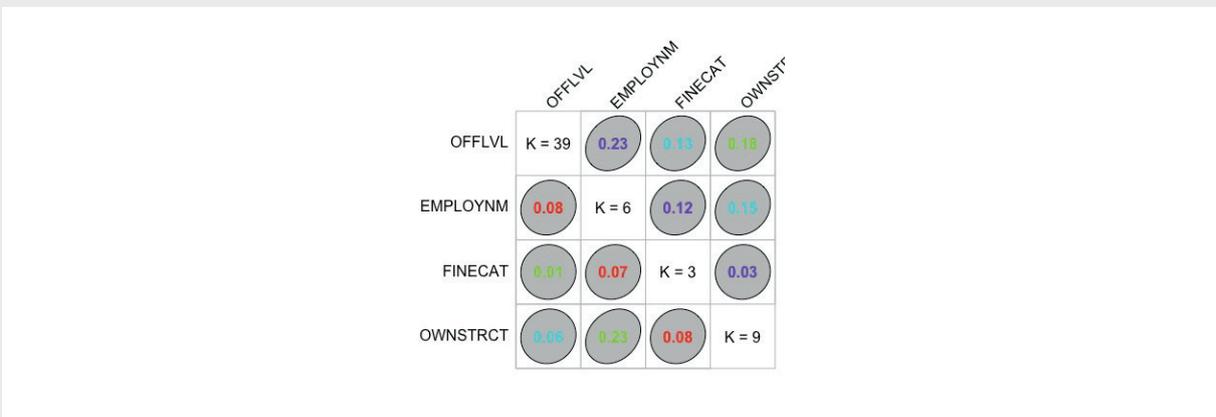


**Figure 3. Correlation Table for all Individual Offender Case Variables**

# Appendix



**Figure 4. Correlations for all Primary Individual Offense Case Categories**



**Figure 5. Correlation chart for organizational offense variables**

## Appendix 5. Remaining statistical outputs for all regression models

### SENTENCE IMPOSED

Deviance Residuals:

Min	1Q	Median	3Q	Max
-3.5195	0.1155	0.2469	0.4144	2.255

(Dispersion parameter for binomial family taken to be 1)

Null deviance: 32313 on 59755 degrees of freedom

Residual deviance: 24072 on 59722 degrees of freedom

AIC: 24140

Number of Fisher Scoring iterations: 7

### TYPE OF MONETARY PENALTY

Deviance Residuals:

Min	1Q	Median	3Q	Max
-2.7503	-0.4116	-0.2198	-0.1452	3.1275

(Dispersion parameter for binomial family taken to be 1)

Null deviance: 53021 on 59755 degrees of freedom

Residual deviance: 29051 on 59722 degrees of freedom

AIC: 29119

Number of Fisher Scoring iterations: 6

### FINE IMPOSED

Call:

polr(formula = FINECAT ~ PRIMOFF\_new, data = data)

Coefficients:

	Value Std.	Error	t value
PRIMOFF_new1	0.6568	0.2293	2.864

Intercepts:

	Value Std.	Std. Error	t value
1 2	0.1043	0.1241	0.8406
2 3	1.2092	0.1414	8.5490

Residual Deviance: 712.1712

AIC: 718.1712

# The Importance of International Corruption Law and International Environmental Law to Achieve SDG16: An Analysis of Global Instruments Addressing Environmental Corruption

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## ABSTRACT

Sustainable Development Goal 16, which is focused on peace, justice and strong institutions, is seen as one of the most important goals adopted by the international community. Goal 16 includes several targets and indicators, including in relation to corruption prevention, which is extremely difficult to address, in particular when it comes to environmental corruption. This is mainly because of the absence of the rule of law or institutional corruption. Despite the existence of global environmental and corruption conventions, so far it seems that there has been a failure to address environmental corruption in both fields. This paper examines the question of whether and how international corruption law and international

environmental law can address environmental corruption. It explores different options for addressing environmental corruption through international environmental law and international corruption law. In conclusion, the paper presents various options that would be effective in addressing environmental corruption.

## KEY WORDS

►► Sustainable Development Goal 16 / Environmental corruption / International corruption law / International environmental law / Rule of law / Institutions

## Introduction

One of the Sustainable Development Goals (SDGs) adopted by the United Nations (UN) is Goal 16, which is focused on promoting peace, justice and strong institutions. This Goal is mainly aimed at promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. Goal 16 contains several targets and indicators addressing a variety of issues related to governance, including the reduction of corruption and the promotion of the rule of law (Dasandi and Mikhaylov, 2019). Corruption is considered by the international community to be one of the most difficult challenges to tackle, which is why it was important to address it within the SDGs. It is defined as the “abuse of entrusted power for private gain” which “may happen on the level of day-to-day administration and public service (petty corruption) or on the high level of political office (grand corruption)” (Peters, 2018). Corruption affects various fields, including the environmental sector, which is the focus of this paper. Examples of environmental corruption include corruption in the petroleum sector, the

movement of hazardous waste across borders and illegal wildlife trafficking (United Nations Office on Drugs and Crime (UNODC), 2011).

Environmental corruption usually occurs either because of the absence of the rule of law or because of corruption occurring at the institutional level. The international community has adopted several conventions on corruption and the environment, such as the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime. Moreover, some provisions within international legal frameworks addressing environmental corruption also exist. Nonetheless, so far it seems that international corruption law and international environmental law have failed to address this issue (UNODC, 2011). This affects the realization of Goal 16 in the environmental context. To this end, this paper analyses global instruments addressing environmental corruption in the context of both the corruption and environmental fields. It explores different options for addressing environmental corruption through both global regulatory frameworks and how these options can open the door to strengthening the

rule of law and existing institutions at the domestic level, which will help achieve the targets set out in Goal 16 (Rubio and Andvig, 2019; O’Neil, 2016). This is of the utmost importance as both global regulatory frameworks need to play a role in fighting environmental corruption.

To reach this goal, the paper first examines the interplay between the rule of law, institutions and environmental corruption. It then provides an overview of environmental corruption through the lens of international environmental law and international corruption law. Based on this analysis, the paper examines four options for addressing environmental corruption in the context of international environmental law and international corruption law: a) through a general environmental treaty addressing corruption; b) through more specific and detailed technical environmental treaties and instruments; c) through a general corruption treaty addressing the environment; and d) through more specific and detailed technical corruption treaties and instruments addressing the environment. Having studied the four possibilities, this paper presents options that can be combined to provide the necessary global regulatory framework for addressing environmental corruption and to ensure the effective protection of the environment.

## Rule of law, institutions and environmental corruption

There is a consensus that corruption causes a lot of environmental damage because of its impact on environmental policy (Damania, Sterner and Whittington, 2020; Pellegrini and Gerlagh, 2006). Environmental corruption involves various actors, including “politicians, customs officials, landowners, organized crime groups, police, shipping firms, and exporters/importers” (International Institute for Sustainable Development (IISD), 2018). It is an area that is very socially damaging (Elliot, 1997), affecting a wide range of environmental fields, including minerals and agriculture (Tacconi and Williams, 2020). Corruption has numerous negative ecological implications, harming the environment through, for instance, overexploitation of natural resources and illegal logging (Sundström, 2013). Some environmental areas are more prone to corruption: mainly the natural resources sector because of the “vast revenues usually involved, the remoteness of many operations, the confidentiality of most contractual arrangements, and the discretionary power of government officials exercised over national resources” (Williams and Le Billon, 2017). It also affects global challenges, particularly climate change, as it can influence mitigation and adaptation efforts (Transparency International, 2011), and other cross-border challenges, such as illegal wildlife trade, which involves public and private sector abuse of power (Organisation for Economic Co-operation and Development, 2018). It is also one of

the main enablers of environmental crimes as it facilitates “fraudulent trade, access agreements, concession licences or import/export certificates, effectively legalizing illicit actions through ill-gotten paperwork” (IISD, 2018).

Environmental corruption occurs in both developing and developed countries, where the main focus in the environmental field is on lobbying to impact environmental policy (Lapatinas *et al.*, 2019). The main drivers of corruption are “the level and pace of economic development, strength of political institutions, activeness of civil society, and some cultural dimensions” (Lu *et al.*, 2019). The presence of specific elements helps to mitigate the risks of corruption, including democracy, freedom, the activeness of civil society, good governance, accountability, free political competition, fair elections, monitoring of executives and transparency (Lu *et al.*, 2019). Reducing corruption and eliminating it is one of the main preconditions for tackling environmental challenges (Bosselmann *et al.*, 2008). It is extremely hard to fight corruption, and more specifically environmental corruption, as the meaning of the term varies from one place to another and across jurisdictions (cultural factors play a very significant role). What is worse is that some consider corruption as an inevitable part of the political system because it is part of human nature that affects all forms of human interrelationships (Hughes, 2010). The main challenge is to actually prove the existence of corruption, because it is normally secretive in a context where public-private interactions are also very susceptible to corruption (Williams and Dupuy, 2017).

Corruption is not directly destructive in the environmental field, rather it is the poor policies that result from it and a lack of enforcement that affect the environment (Morse, 2006). There are two explanations for why environmental harm occurs. First, corruption affects the stringency of environmental regulations that shape policy, mainly through bribery. Second, the enforcement of laws is hampered and those who cause harm are not held responsible according to these laws (Sundström, 2013). Usually, the legislative process related to the adoption of environmental regulations and their enforcement is affected by the corruption of officials by the private sector (Wang, Yuan and Wang, 2019). Corruption can limit the ability of a state to solve environmental problems, while bureaucratic corruption can limit the implementation of environmental policies. Moreover, corruption evolves within institutional systems, further affecting environmental governance (Pellegrini, 2011). Monitoring environmental compliance is limited but is still possible in the presence of corruption, while enforcement is hampered. Depending on whether the rule of law exists or not, corruption can take various forms and be entrenched to various degrees, to the point of non-existence in the context of a very weak state, where there is no need for influencing policy and regulations (Ivanova, 2007). Often at the national level, legal mechanisms to

address environmental crimes are inadequate, ignored or non-existent. This is particularly the case in developing countries (Stoecker and Shakirova, 2014). It is in this context that the international community is called upon to promote laws addressing environmental corruption, given its negative impact on environmental governance domestically and across borders.

## Environmental corruption through the lens of global regulatory frameworks

This section examines the topic of environmental corruption through the lens of international environmental law and international corruption law. The objective is to identify how both regulatory frameworks address this matter.

### a) Environmental corruption through the lens of international environmental law

The number of global environmental agreements has progressively increased in recent decades and they currently address various topics from a very technical perspective. These agreements are extremely important to achieving various environmental objectives and to solving common challenges, notably those in areas where new treaties are also expected to be adopted (Dupuy and Viñuales, 2018; Weiss, 2011). Unfortunately, a closer look at these agreements highlights that these binding instruments do not include provisions directly or indirectly addressing environmental corruption in various sectors, such as atmosphere, freshwater resources, hazardous substances, marine environment and energy (Wangler, Altamirano-Cabrera and Weikard, 2013). Examples of important environmental treaties include the Convention on the Law of the Non-Navigational Uses of International Watercourses of 1997, the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972, the International Tropical Timber Agreement of 1983 and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency of 1986 (University of Oregon). None of these conventions, or many others, have addressed the question of environmental corruption in the context of the issues regulated within these treaties. The absence of such provisions within international environmental agreements related to corruption had and is still having a negative impact on corruption reduction and elimination.

Indeed, corruption is affecting the implementation of international environmental agreements in various fields. This is the case, for instance, when it comes to the Paris Agreement, where political interference and the influence of companies impacted by the agreement, such as oil and gas

companies, is affecting environmental policymaking at the state level. This is occurring through illicit lobbying (Böhmer, 2020), especially in places where governance structures, institutions and the rule of law are either weak or non-existent (Transparency International, 2017). Illicit lobbying is taking place with the objective of either slowing down or putting obstacles before the implementation of emission reduction commitments in accordance with the Paris Agreement (Böhmer, 2020; Fixsen, 2020). A similar situation can be noted when it comes to illegal deforestation, as despite the existence of numerous international environmental agreements addressing this issue (European Commission), deforestation is occurring at a fast rate in developing countries as a result several factors, including corruption (Galinato and Galinato, 2011). In fact, corruption is considered the main cause of illegal logging, illicit activities and weakening law enforcement efforts (National Whistleblower Center). These activities constitute the main threat to forest conservation and governance (Grant and Chen, 2021). In this context, there are calls for bringing environmental corruption cases before international courts, such as the International Court of Justice (Bendel, 2019), and establishing an international anti-corruption court to address, among many things, environmental corruption (Erickson, 2020).

Hence, so far corruption in the environmental field has not been addressed effectively through existing environmental agreements despite the significant impact of corruption on the environment. It is because of this reality that various international agencies, such as UNODC and the United Nations Industrial Development Organization, have been attempting to address this issue (UNODC, 2011), through research, policy consideration and lobbying at the international and national levels (UNODC, 2019; IISD, 2012).

It is worth mentioning in this context the existence of a few non-binding instruments and initiatives at the international level that are relevant directly and indirectly to environmental corruption. These include the Extractive Industries Transparency Initiative, which promotes good governance in the oil, gas and mineral resources fields (The Extractive Industries Transparency Initiative), and the United Nations Global Compact, which is based on three principles related to the environment that must be respected by businesses (United Nations Global Compact). There is also the Ruggie Principles, with its three main principles, which include “the duty to protect against human rights abuses by third parties, including business and the corporate responsibility to respect human rights” (United Nations Guiding Principles). Hence, as it has been noted, there is a long way to go in the environmental field to properly address environmental corruption given the absence of explicit agreements or provisions within environmental agreements.

## b) Environmental corruption through the lens of international corruption law

There are various conventions that have been adopted at the international and regional levels that address the issue of corruption. The main international convention addressing corruption is the Convention against Corruption, which was adopted by UNODC in 2004 (UNODC, 2004). This convention does not mention the term “environment” in its text. Nonetheless and upon examining it, it seems that its general provisions apply in the case of environmental corruption, especially given the broad scope of the treaty. This is highlighted in article 3 (1), in which it is stated that the treaty applies to the “prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention.” This has also been highlighted in practice by various experts who have looked at the application of the provisions of this convention to the environmental field (UNODC, 2011).

The convention imposes obligations on States to take preventive measures (articles 5 to 14), such as the adoption of preventive anti-corruption policies and practices and the establishment of preventive anti-corruption body or bodies (UNODC, 2004). States are expected under the treaty to adopt legislative and other measures related to criminalization and law enforcement (articles 15 to 42). These include, for instance, measures related to the bribery of national public officials and the bribery of foreign public officials and officials of public international organizations (UNODC, 2004). Obligations related to international cooperation are included (articles 43 to 50), such as the obligation of international cooperation in criminal matters, extradition, transfer of sentenced persons, etc. (UNODC, 2004). There are also duties related to asset recovery (articles 51 to 59), such as the prevention and detection of transfers of proceeds of crime and measures for direct recovery of property (UNODC, 2004). Finally, there are provisions related to technical assistance and information exchange (articles 60 and 62), such as training and technical assistance, and the collection, exchange and analysis of information on corruption (UNODC 2004), and provisions associated with mechanisms for implementation (articles 63 and 64).

Besides this convention, the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, which was adopted in 1997, mentions the importance of having “a stable and transparent environment for international commercial transactions” to promote environmental protection. This topic was also considered as an important element to “promote social responsibility and appropriate standards of ethics on the part of private and public corporations”, where “effective efforts at all levels to combat and avoid corruption and bribery in all countries”

would ensure its promotion (General Assembly, 1997). Finally, the Organized Crime Convention does not discuss environmental corruption (UNODC, 2000). Other conventions related to corruption, which are regional, do not directly cover the topic of environmental corruption, although general provisions can apply. These conventions include the 1999 Council of Europe Civil Law Convention on Corruption, the 1999 Council of Europe Criminal Law Convention on Corruption, the 1996 Inter-American Convention against Corruption, the 2003 African Union Convention on Preventing and Combating and the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Despite the documented negative impact of corruption on the environment at the national and international levels (Williams, 2019; Woods, 2008), existing international corruption conventions do not directly address environmental corruption, but rather general provisions apply to the environmental field. In this context, one can make the argument that the general nature of the provisions of existing conventions is sufficient for addressing environmental corruption. However, one can also state that the absence of specific environmental corruption provisions and the inability of current conventions to address environmental corruption are sufficient to argue for the adoption of an environmental corruption convention.

## Options to address environmental corruption in the context of international environmental law and international corruption law

The following sections examine the various options available to the international community for the regulation of environmental corruption. These options are based on existing legal practices within the global environmental and corruption fields.

### a) A general environmental treaty addressing corruption

Over the years, the international community has adopted general global environmental agreements addressing specific topics and challenges. Such agreements were the result of work from various stakeholders, including States, international organizations, environmental experts and civil society organizations. The topics addressed within these treaties include climate change, water resources, energy governance, food and agriculture and marine resources (Sand, 2019). Hence, the practice of adopting general environmental agreements is already the norm in

the environmental field. A similar practice can be applied to environmental corruption. The international community can adopt a new environmental corruption agreement to be signed and ratified by various States that are interested in addressing environmental corruption. Such a treaty could be updated over time through the adoption of new treaties that also address environmental corruption.

The examples of this practice are many, as mentioned earlier. For instance, in the field of climate change, the last three decades have been a very important period for the development of international climate change law. The international community has made great efforts through the numerous conferences that have taken place since the United Nations Conference on Environment and Development in 1992, including through the Conference of the Parties meetings (COPs). COP 26 is expected to take place in Glasgow in December 2021. These conferences have specifically addressed climate change and have been the basis for the adoption of numerous recommendations, non-binding documents and general agreements addressing climate change (Bodansky, Brunnée and Rajamani, 2017). It is worth mentioning in this context that the road to the adoption of such agreements was not easy; numerous conferences failed to reach their expected outcomes. This was the case, for instance, for the COP meeting in Copenhagen in 2009, where it was hoped that a new legally binding agreement would emerge. Instead, only a political agreement was reached. Nonetheless, despite the many failures, two main agreements have been adopted (Bodansky, 2010; Dessai, 2001). The first is the 1992 United Nations Framework Convention on Climate Change, adopted to achieve “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system” (UNFCCC 1992, Art. 61). The second agreement is the 2015 Paris Agreement, which is aimed at “strengthening the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty” (Paris Agreement 2015, Art. 2(1)).

In the transboundary field of water, similar development has occurred. The last three decades was a period of extreme importance for the development of international water law. After decades of consultations, conferences and the development of non-binding instruments by expert groups, such as the International Law Association, the international community finally managed in the 1990s to adopt two global water conventions (Leb, 2013). The first convention adopted by the United Nations Economic Commission for Europe (UNECE) was the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, where the parties must “develop, adopt, implement and, as far as possible, render compatible relevant legal, administrative, economic, financial and technical measures” for the prevention, control and reduction of transboundary

impact (UNECE Water Convention 1992, Art. 3(1)). The second convention is the 1997 United Nations Watercourses Convention, which “applies to uses of international watercourses and of their waters for purposes other than navigation and to measures of protection, preservation and management related to the uses of those watercourses and their waters” (UNWC 1997, Art. 1(1)). It is worth noting in this context that controversies occurred with regard to the development of international water law applicable to groundwater resources and future conventions are expected in this field (McCaffrey, 2009).

Similar development can occur in the field of environmental corruption, where the international community can work to create and adopt a general environmental corruption convention that addresses various environmental issues affected by corruption. Also, in this case, it will be necessary to address the challenges relating to the adoption and implementation of international environmental agreements (Spector and Korula, 1993).

## **b) More specific and detailed technical environmental treaties and instruments**

International environmental law is not only based on general treaties that address all kinds of environmental challenges. The increasing technicalities and better scientific understanding of various environmental issues has led to the adoption of more specific technical agreements that address very detailed issues within each regulated environmental field. Moreover, non-binding instruments that address specific matters within each environmental field, especially those that are extremely controversial, have also been adopted (Kiss and Shelton, 2007; Dinar and Rapoport, 2013). This is also taking place in the context of international law, given the increasing complexities and technicalities of the matters being examined (Benvenisti and Downs, 2007; Hafner, 2004). This reality is the result of a new approach aimed at providing flexibility in the environmental field given the constant emergence of new problems and knowledge (Glicksman *et al.*, 2019).

For instance, despite the adoption of a general agreement addressing the marine environment, in this case the 1982 United Nations Convention on the Law of the Sea, numerous other agreements and protocols preceded and followed this treaty regulating specific issues within the marine environment. These include, for instance, the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, the 1973 International Convention for the Prevention of Pollution from Ships, the 1954 International Convention for the Prevention of Pollution of the Sea by Oil, the 1992 International Convention on Civil Liability for Oil Pollution Damage, the 1992 International Convention on the

Establishment of an International Fund for Compensation for Oil Pollution Damage and many more other conventions that address various elements related to the sea and oceans, such as hazardous and noxious substances (Argüello, 2020; Kimball, 2003).

Similar development can be noted in international water law: despite the adoption of binding global water conventions, over time the international community has adopted more specific instruments. For instance, UNECE adopted the Protocol on Water and Health in 1999. The protocol is aimed at “promoting at all appropriate levels, nationally as well as in transboundary and international contexts, the protection of human health and well-being, both individual and collective, within a framework of sustainable development, through improving water management, including the protection of water ecosystems, and through preventing, controlling and reducing water-related disease” (UNECE Water Protocol 1999, Art. 1). In the field of climate change, the international community adopted the Kyoto Protocol in 1998. The protocol operationalizes the United Nations Framework Convention on Climate Change by “committing industrialized countries and economies in transition to limit and reduce greenhouse gases emissions in accordance with agreed individual targets” and by asking “those countries to adopt policies and measures on mitigation and to report periodically” (UN Kyoto Protocol).

Environmental corruption affects various environmental fields, including minerals and agriculture (Tacconi and Williams, 2020). Examples of environmental corruption include poaching, wildlife trafficking, illegal logging and pirate fishing (World Wildlife Fund Environmental Corruption), where weak institutions and rule of law have led to environmental and ecological disasters (Ganda, 2020). Examples of countries where these practices occur include Brazil, China, Guinea, India, Mozambique and the United Republic of Tanzania (Williams and Dupuy, 2016). The above-mentioned specific issues have been covered by conventions such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Several countries have introduced this convention into domestic law by criminalizing poaching and trade in trophy animals, such as Australia, the United Kingdom of Great Britain and Northern Ireland and the United States of America, while others have not done it, creating a loophole (Wyatt, 2013; UNODC, Module 3).

Given the complexities of the matters related to and the fields where environmental corruption is taking place, perhaps it would be more appropriate to adopt several international environmental agreements that specifically address each matter in detail. This would allow the adoption of provisions tailored to each issue instead of having a general convention addressing environmental corruption in the general sense.

### **c) A general corruption treaty addressing the environment**

Fighting corruption is one of SDGs; States are being asked to take active measures to address corruption, including environmental corruption (Peters, 2018; Williams, 2019). In this context, global regulatory frameworks are seen as necessary, as highlighted by various organizations, such as the UN (Snider and Kidane, 2007), despite the fact that existing corruption conventions mentioned in previous sections are facing various challenges (for instance, related to their scope and implementation despite their importance) (Wouters, Ryngaert and Cloots, 2013). Given the practice of adopting general international conventions addressing corruption, one can make the case for the establishment of an international corruption treaty addressing the environment, which would benefit from existing practices in the field and from environmental provisions adopted in various environmental treaties, especially the more comprehensive ones. It is important to mention international cooperation on trophy animal trade, in particular cooperation occurring in places such as airports, with measures enforced globally at border points (Pahre, 2009).

Indeed, existing international corruption conventions provide guidance on the ways to adopt a new general corruption agreement that addresses the environment. In particular, the Convention against Corruption, with its numerous and comprehensive provisions, provides much needed guidance in this regard, as highlighted earlier, through its various sections and issues covered within the agreement. This is indeed the case given the various purposes of the convention, which are “(a) to promote and strengthen measures to prevent and combat corruption more efficiently and effectively; (b) to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery; and (c) to promote integrity, accountability and proper management of public affairs and public property” (UNODC, 2004, Art. 1). Hence, this convention can be used as a model for the adoption of a new corruption treaty addressing the environment.

There are several other international corruption conventions that can be used as guidance; these are mainly regional. These include the 1999 Civil Law Convention on Corruption. The treaty provides “in its internal law for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests, including the possibility of obtaining compensation for damage” (Council of Europe 1999b). Another example is the 1999 Criminal Law Convention on Corruption. The treaty is aimed at the “co-ordinated criminalisation of a large number of corrupt practices” and provides for “complementary criminal law measures and for improved international co-operation in the prosecution of corruption

offences” (Council of Europe 1999a). A third example is the 1996 Inter-American Convention against Corruption, which seeks to “promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption” among many other things (Inter-American Convention Against Corruption 1996, Art. II). Finally, the African Union Convention on Preventing and Combating Corruption can also be used as a guide. This convention has many objectives, including the promotion and strengthening of the “development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors” (African Union Convention on Preventing and Combating Corruption 2003, Art. 2).

The list of conventions examined is a non-exhaustive one. Still, it highlights how the international community can use existing provisions and practices to adopt a new global regulatory framework addressing corruption in the environmental field. In fact, one can argue that a combination of provisions from various general conventions that take into account the environment can be used together with other provisions that specifically address technical environmental aspects.

#### **d) More specific and detailed technical corruption treaties and instruments addressing the environment**

As mentioned earlier, environmental corruption affects various environmental fields, including natural resources extraction and agriculture (Tacconi and Williams, 2020). In fact, various sectors suffer from environmental corruption: natural resources are being overexploited (Sundström, 2013), timber is being illegally harvested, processed, transported, bought and sold (EUFLEGT Facility), there is illegal wildlife trade (Sas-Rolfes *et al.*, 2019) and the protection of the common resources that belong to mankind (Pendergast, Clarke and Van Kooten, 2011) and environmental protection generally are under threat (Accinelli, Policardo and Carrera, 2012). The list of environmental fields and sectors affected by corruption and mentioned in this section is a non-exhaustive one. Given this reality, one can argue for the adoption of several corruption treaties specifically addressing each environmental field or sector that is affected by corruption, instead of a general corruption agreement addressing the environment. This practice already exists, with specific international corruption agreements and protocols adopted over the years.

The Organized Crime Convention was adopted in 2000. This convention has a general nature and focuses on the efficient prevention and combatting of transnational organized crime. Based on this convention, several protocols were adopted addressing specific categories or

sectors. These include the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The protocol aims “a) to prevent and combat trafficking in persons, paying particular attention to women and children; (b) to protect and assist the victims of such trafficking, with full respect for their human rights; and (c) to promote cooperation among States Parties in order to meet those objectives” (Protocol 2000a, Art. 2 (a) (b) (c)). Another is the Protocol against the Smuggling of Migrants by Land, Sea and Air. The protocol is aimed at “preventing and combating the smuggling of migrants, as well as the promotion of cooperation among States Parties to that end, while protecting the rights of smuggled migrants” (Protocol 2000b, Art. 2). A third is the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. It is aimed at “promoting, facilitating and strengthening cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition” (Protocol 2001, Art. 2).

There are other international conventions that specifically address certain aspects of corruption. These include the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. This convention “establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective” (OECD Convention 1997). Hence, it can be noted that the practice of adopting treaties and protocols addressing specific aspects of corruption is already in place. Based on this practice, various corruption treaties or protocols can be adopted for addressing specific fields and aspects of environmental corruption.

### **Analysis: combining various options**

The options mentioned above can be combined in ways that provide the necessary global regulatory framework for addressing environmental corruption and that ensure the effective protection of the environment.

#### **a) In the context of international environmental law**

As mentioned previously, there are two types of international environmental agreements that have been adopted. The first type is general agreements and the second type is more specific treaties addressing certain matters (Sand, 2019). The main examples of the first type are the United Nations Convention on the Law of the Sea, which provides general rules for the regulation of the sea, and the Paris Agreement, which addresses climate change. The principal examples of the second type are agreements

addressing specific elements and aspects related to the seas, such as the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter and the International Convention for the Prevention of Pollution from Ships (Argüello, 2020; Kimball, 2003). In the field of climate change, the Kyoto Protocol represents such a treaty (Bodansky, Brunnée and Rajamani, 2017). It can be argued that a combination of these options is much more effective for addressing environmental corruption globally. In this sense, a general environmental corruption agreement can be adopted, taking the form of a framework convention and setting general rules and principles. Based on this framework convention, more detailed binding mechanisms in the form of protocols or agreements can be established that address specific aspects or matters in relation to environmental corruption. This practice has already been used in several environmental fields.

For instance, in the context of transboundary water governance, the international community has adopted two international water conventions: the United Nations Watercourses Convention and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes. These treaties establish general rules and principles applicable at the basin level. The general principles include the principle of equitable and reasonable utilization, the obligation not to cause significant harm and the principle of cooperation. Based on these treaties, States then adopt basin specific agreements tailored to the context and specificities of each basin (Leb, 2013; Eckstein, 2017; McCaffrey, 2019). In fact, basin agreements in many instances are also considered as framework conventions, on the basis of which follow-up agreements and protocols addressing specific aspects are adopted. Examples include the 2001 Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on Cooperation in the Use and Protection of Transboundary Rivers. Based on this agreement, numerous more specific treaties were adopted. These include the 2005 Agreement between the Ministry of Agriculture of the Republic of Kazakhstan and the Ministry of Water Management of People's Republic of China on early warning on natural disasters on transboundary rivers, the 2006 Agreement on the Mutual Exchange of Hydrological and Hydro Chemical Information (Data) of Border Gauging Stations on Major Transboundary Rivers and the 2006 Agreement on the Development of Scientific-Research Cooperation (Ho, 2017).

There are examples of similar environmental framework conventions in other fields, based on which more specific agreements were adopted. These examples are beyond the scope of this paper (Beyerlin, Stoll and Wolfrum, 2006). In the context of environmental corruption, a general environmental corruption agreement can be established to set down the necessary provisions from international

corruption and international environmental law. The treaty can then constitute the basis for the adoption of more specific or follow-up agreements that address, for instance, the overexploitation of natural resources, illegal logging (Sundström, 2013) and illegal wildlife trade (OECD, 2018). Each of these fields mentioned in relation to environmental corruption are highly technical and as such require detailed provisions that can respond to each technical and specific issue. The combination of a framework convention and more detailed and specific treaties can provide the appropriate balance in this regard.

## **b) In the context of international corruption law**

As highlighted earlier, there are general conventions and more specific ones as well as protocols within international corruption law. The main general convention is the Convention against Corruption, while other conventions have a rather broader nature despite addressing specific topics, such as the Criminal Law Convention on Corruption and Civil Law Convention on Corruption. Moreover, within certain general conventions, specific protocols and mechanisms have been adopted. The main example was examined earlier: the Organized Crime Convention and the several protocols adopted as a follow-up that address trafficking in persons, especially women and children, the smuggling of migrants by land, sea and air, and the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (United Nations, 2000). Hence, despite the adoption of a rather broad convention addressing transnational organized crime, there was a need to establish protocols focused on, in detail, specific groups and aspects in this context. A similar approach can be adopted for addressing environmental corruption. The international community can adopt a general environmental corruption convention and supplement it with protocols that address more specific issues, for instance, environmental corruption in the natural resources field (Sundström, 2013), illegal timber trade (EUFLEGT Facility) and illegal wildlife trade (Sas-Rolfes *et al.*, 2019).

The protocols to the Organized Crime Convention are essential. Despite addressing transnational organized crimes within the provisions of the convention generally, there was need for these protocols. For instance, the global community acknowledged the need for a “comprehensive international approach in the countries of origin, transit and destination” to prevent and combat trafficking in persons especially women and children given the absence of such an instrument (Protocol 2000a, Preamble). A similar international approach was declared to be needed, “including cooperation, the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels”, for preventing and combating the

smuggling of migrants by land, sea and air (Protocol 2000b, Preamble). Similarly, the need for “international cooperation and other measures at the regional and global levels” was highlighted for the adoption of the protocol related to illicit firearms given the “urgent need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition” (Protocol 2001, Preamble).

There are other examples of conventions where follow-up agreements were adopted. These include the Criminal Law Convention on Corruption, where an additional protocol to the treaty was adopted in 2003. This mechanism “extends the scope of the Convention to arbitrators in commercial, civil and other matters, as well as to jurors, thus complementing the Convention’s provisions aimed at protecting judicial authorities from corruption” (Council of Europe 2003). Similarly, a Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption was adopted. This mechanism is an “intergovernmental body with broad opportunities for participation from civil society, which supports the 31 States parties in the implementation of the Convention” (OAS 2017) by reviewing their laws and institutions in the general framework of the convention (OAS, Anticorruption Portal). Hence, similar practice can be applied to addressing environmental corruption through the adoption of a general treaty followed by protocols or follow-up mechanisms.

## Conclusion

This paper examines the regulation of environmental corruption in the general framework of international corruption law and international environmental law. It has been highlighted that both global regulatory frameworks do not have a convention that regulates environmental corruption or specific provisions within existing treaties, whether they are general ones or more specific. Four different options for the regulation of environmental corruption globally are examined; they are: a) through a general environmental treaty addressing corruption, b) through more specific detailed technical environmental treaties and instruments, c) through a general corruption treaty addressing the environment, and d) through more specific and detailed technical corruption treaties and instruments addressing the environment. And while each of these options are possible and feasible in theory, it is argued that a combination of options would ensure more effective regulation of environmental corruption globally.

First, in the context of international environmental law, it is more appropriate to adopt a general environmental convention, including broad principles and provisions. Based on this convention, which should be considered as a framework convention, additional specific mechanisms,

whether a convention, a protocol or a follow-up mechanism, can be adopted addressing specific aspects or elements of environmental corruption. Second, in the context of international corruption law, a similar approach can be taken. In this sense, the international community could adopt a general corruption agreement addressing environmental corruption. Based on this convention, additional agreements and follow-ups can be adopted to tackle specific aspects and elements of environmental corruption. The current practice in both fields supports this argument given the existence of general conventions on the basis of which supplementary conventions have been adopted.

There are several legal aspects and questions concerning environmental corruption that were not examined as they are beyond the scope of this paper. These issues are mostly related to the kind of synergies that can be created between both fields. For instance, in both scenarios suggested in the paper, would it be appropriate to include provisions from both fields to ensure adequate regulation? Would it be appropriate to include environmental principles, concepts and provisions within the general corruption convention and its supplementary mechanisms? Would it be appropriate to include corruption principles, concepts and provisions within the general environmental convention and its supplementary mechanisms? Doing so would not only respond to a need to regulate the field of environmental corruption at the international level but would also result in the creation of synergies between international corruption law and international environmental law. This would follow the current trend of addressing the fragmentation of international law into various regulatory frameworks through the creation of synergies between these frameworks (Trachtman, 2013). This is needed especially in the context of existing overlaps between various regulatory frameworks that can address similar topics, such as in this case (Trachtman, 2011).



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# III.

## CHALLENGES TO PEACE AND SUSTAINABLE SOCIETIES AND SDG 16

# Ethiopian Universities: Are they Catalysing or Calming Ethnic Conflicts

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## ABSTRACT

Many of society's cultural and political ideas originate in universities. Formally, higher education serves to educate young people and generate research. The facts, narratives and terminology students learn about politics, economics, ethnicity, race, religion, nationality and history influence their opinions on these topics for the rest of their lives, leaving an indelible mark on popular opinion. Further, in most societies, academics enjoy greater trust from the general public than non-experts. So, when academics start to promote certain ideas, such as ethnic cleansing, they quickly gain social currency and become easier to justify. This paper explores the role played by public universities in Ethiopia in facilitating and addressing ethnic conflicts by considering data from four selected universities.

Ultimately, the analysis suggests that the issue starts with the very establishment of universities in every region despite their preparedness in

relation to providing quality education and having the necessary infrastructure to deliver this. Further, centralized, corrupt and politicized university administration hampers transparency and accountability in relation to handling ethnic conflicts. This has resulted in universities operating not just as educational institutions, but as places where regional issues linked to their location are discussed and funded. Of course, the ethnic-based violence that happens in universities is related to the situation in the country in general, where every issue could result in ethnic conflict. Hence, the very structure of the institutions has to be reconsidered and the issue of ethnic conflict has to be addressed at the national level.

## KEY WORDS

»» University / Ethnic conflict / Ministry of Science and Higher Education / Peace building

## 1. Introduction

### 1.1 Background

Ethnic conflict is a form of conflict in which the objectives of at least one party are defined in ethnic terms and the conflict, its antecedents and possible solutions are perceived along ethnic lines. The conflict is usually not about ethnic differences themselves but over political, economic, social, cultural or territorial matters (Kempin, 2015). Such conflicts are more rampant and complicated in countries such as Ethiopia, where there are about 83 ethnic groups. Ethiopia has been described as “a museum of peoples” (Wagaw, 1999), the population of which is characterized by a “complex pattern of ethnic, linguistic and religious groups” (Tronvoll, 2000, 6).

It is believed that there are ethnic tensions and conflicts in the country more than ever before because of ethnic

boundaries, ethnic identities, scarce resources and power rivalry (Aalen, 2011). Ethiopia's political liberalization, underway since April 2018, gave hope to many that the country was moving towards a better future and away from its autocratic past (Yusuf, 2019). This euphoria was, however, dimmed with the rise of violent ethnic conflicts across the country.

The first higher education institution in Ethiopia, the University College of Addis Ababa, was founded in 1950. Currently, there are 46 public universities in the country. These universities seem to have highly ethnically diverse populations, more so than other interactive settings, such as schools, residences and workplaces. Because of the diverse student population they have, with students from every corner of the country, public universities are often considered “mini-Ethiopia” (Adamu, 2007). Higher education institutions are one of the contexts where ethnic tensions and conflicts occur, and there is increasing concern that

they are becoming major battlefields for ethnic conflict in Ethiopia (Adamu, 2013).

Although tension and conflict are not new to Ethiopian public universities, they have reached unprecedented levels in recent years. Ethnic tensions and violence have become so prevalent that many parents are becoming hesitant (or unwilling) to send their children to universities located in states where their ethnic group is not in the majority. Consequently, although tuition fees at public universities are insignificant compared to the tuition fees at private universities, some parents prefer to send their children to private universities to avoid the danger in public universities because they are easily accessible and small in size (Adamu, 2013).

This paper primarily focuses on exploring if universities are accelerating or calming ethnic conflicts. The study was conducted by selecting four public universities in the country where such conflicts have happened. These are the universities of Bulle Hora, DebreMarkos, Woldiya and Wollega.

**Bulle Hora University** is a public higher educational institution established on 28 November 2008 and is located in Bule Hora in the West Guji Zone of the Oromia region. It is around 470 km south of Addis Ababa.

**Debre Markos University** is located in Debre Markos, a town which is located in north western Ethiopia. The town is 300 km northwest of the capital, Addis Ababa, and 265 km southeast of Bahir Dar, the capital of Amhara National Regional State.

**Wollega University** is a public higher educational institution established in February 2007. It has 851 students in 17 departments under four faculties. The university is located in Nekemte, a town which is 310 km away from Addis Ababa.

**Woldia University** is found in North Wollo in the Amhara region, 525 km north of Addis Ababa, 360 km east of Bahir Dar and 265 km south of Mekelle city. It started teaching in 2004 and has 600 students.

## 1.2 Statement of the problem

Historically, Ethiopian higher education institutions have been the main source of leaders for both the ruling and opposition parties. Since early 1960s, the time when most of the current party leaders were higher education students, Ethiopian higher education has been the breeding ground for the would-be leaders of the country. In those days, it was on university campuses that the most contentious issues of the time, such as 'land to the tenure' and the equality of nations and nationalities, came to the forefront (Yadessa,

2018). At that time their agenda was not limited to ethnic identity, rather it was mainly a national agenda. But since the installation of the federal government structure, which answered basic questions relating to different nationalities within the country, another headache has followed.

These days it has become common news to hear that a student of one ethnic group has been attacked by a student from another group. It is hard to find a university which finishes its academic year without such horrendous incidences. When critically observed, sometimes (but not always) university students demonstrate a carbon copy of societies practices. If there is conflict or tension between two or more ethnic groups within the society, the same thing also happens among the students in universities from same ethnic groups (Adamu, 2013).

University settings are fertile grounds for ethnic violence as tens of thousands of young students, with different ethnic, cultural and religious backgrounds, coalesce and live in close proximity, often for the first time. The nature of diversity and the presence of a huge number of young people, who have access to the Internet, closely follow the latest political developments and, above all, are living in one place, make the campus set-up a perfect arena for political elites, who are jockeying for power, to stage their battle (Abebe, 2019)

Studies on violent conflict among students in Ethiopian universities are limited and most of them are case studies focusing on a single university. They therefore lack comprehensive analysis. This study tries to fill this gap by making use of published case studies written at different times, in addition to a situational analysis of the current sporadic violence at Ethiopian public universities using data from the selected universities.

Taking this in to account, the study tries to answer the question of if Ethiopian universities are accelerating or calming ethnic conflict.

## 1.3 Methodology

This study employed a qualitative approach to identifying the catalysing and calming influence of Ethiopian universities in relation to ethnic conflict. The data was selected from Debre Markos, Woldia, Wollega and Bule Hora universities. These universities were purposely selected because they have experienced relatively serious levels of ethnic conflict or the threat of ethnic conflict.

The participants were four senior students, two teachers and two administrative staff members, who were selected using purposive and snowball sampling from each study area. Qualitative semi-structured interview guidelines were used because they allow for a focus on main issues and for incorporating issues which may arise during interviews.

A total of 32 in-depth interviews were conducted. Ethical considerations were taken into account while collecting the data. The study also used other primary sources, such as the Constitution of the Federal Democratic Republic of Ethiopia, the Higher Education Proclamation No. 1152/2019 and different governmental reports, in reaching its conclusions. The generated data were analysed using a thematic approach.

## 1.4 Methodological limitations

Initially, it was the plan of the researcher to collect data from ten universities and employ semi-structured interviews and focus group discussions to enrich the primary data and to provide a more grounded conclusion. However, this was not possible because most of the selected respondents were not willing to give information on this issue despite the fact that some of them had initially expressed their willingness.

## 2. Overview of ethnic violence in Ethiopian universities

### 2.1 Summary of ethnic conflicts in Ethiopian universities

Universities are a small-scale version of the country, where students from diverse ethnic, social and cultural backgrounds come together to live and study. Historically, Ethiopian university students have participated in and contributed to political and social change of the country. They are often known to have asked questions and voiced concerns of broader society, even in the face of repressive government measures (Yadessa, 2018). However, these days, instead of becoming a strong force to address major societal problems and contributing to peace and national unity, university students are aggravating the politicization of ethnicity. They have been vulnerable to ethnic extremism and are becoming instruments for various political agendas, even at the expense of the lives of their classmates. A report by the Centre for Advancement of Rights and Democracy (CARD), a local non-governmental organization, documented at least nine rounds of university-based conflict since December 2017, with violence flaring up on more than one campus at a time (Gardner, 2020).

Universities, as federal institutions with mixed populations, are much more diverse places than most schools and workplaces. But they have grown increasingly homogenous in recent years, following a shift away from the old pattern of posting students and academics to universities far from their home region. Today, each university is the de facto property of an ethnic group, according to Yonas Ashine, author of the CARD report. Most staff and management are locals and the leadership of student unions is drawn

mostly from the indigenous ethnic group. This can aggravate tensions between students (Yadessa, 2018).

By February 2019, at least dozen students had been killed in clashes in 22 of Ethiopia's 45 public universities. Most came from the Amhara and Oromo ethnic groups, which together make up about two thirds of the country's population of 100 million. In one example, due to ethnic violence involving stones and knives, which caused many injuries, nearly a thousand mostly male students from Amhara fled by bus for their own safety. Classes and exams were postponed for several weeks (Gardner, 2020).

Similar exoduses of both Amhara and Oromo students took place across the country, and by mid-January an estimated 35,000 students had quit classes because of the unrest. Before the outbreak of COVID-19 forced universities to suspend classes, many students had returned, although some had asked to be transferred to their home region or enrolled in private colleges instead. To maintain order, the Government has effectively imposed state-of-emergency conditions at all public universities, deploying federal police, enforcing curfews and banning unauthorized gatherings (Gardner, 2020).

### 2.2 Ethnicity and the political architecture in Ethiopia

Although conflicts in Ethiopia, or for that matter anywhere, are stimulated by structural and historical factors (both of which are driven by cultural dimensions), the dependence of the political architecture of a country on ethnicity has a tremendous role in the initiation of ethnic violence.

In Ethiopia, in 1991, the current Government came to power and introduced an ethnicity-based federal system. Consequently, ethnicity has become the ideological basis of the Government's political organization and administration (Abbink, 1997). According to State policy, Ethiopian unity or national identity is based on the recognition and accommodation of diversity and to improve equality among the different ethnic groups (Van der Beken, 2012). In today's Ethiopia, ethnicity has become the main mobilizing force and a prism to view economic, social and political issues. This, however, is fraught with dire consequences. The political arrangement inspires elites and politicians to see themselves as agents of their ethnic groups. They view ethnicity as politically convenient to mobilize and get socio-economic privileges (Abebe, 2019). As such, elites manipulate history in a manner that advances their parochial interest, stoking sharp inter-ethnic and intra-ethnic divisions. The politicization of ethnicity has cultivated ethnic divisions and deep mistrust among ethnic groups. The rise of such ethnic politics has engendered "we versus them" thinking among ethnic groups, which has stirred tension among groups that had been living in harmony (Abebe, 2019). Studies indicate

that contrary to intended goals, the implementation of ethnic federalism in Ethiopia seems to have created more problems than it set to solve (Gudina, 2007).

Ethnic relations have soured and violent community clashes have broken out in many pockets of the country following the recent political liberalization. There are many channels through which resentments can be expressed, leading to a spike in ethnic-based violence in the country. Semir Yusuf, a senior researcher in the Horn of Africa programme at the Institute for Security Studies, observes that the era of political liberalization in Ethiopia since 2018 has unleashed the force of “unbridled contending nationalisms”, which has led to a spike in ethnic tension across the country. After the political liberalization, federal political power has been left mostly with the Oromo and Amhara groups. This has resulted in an imbalance of political power (Abebe, 2019).

The nature of diversity and the presence of a huge number of young people, who have access to the Internet, closely follow the latest political developments and, above all, are living in one place, have made universities a perfect arena for political elites, who are jockeying for power, to stage their battle. Although university students do not always demonstrate a carbon copy of society’s practices, if there is conflict or tension between two or more ethnic groups within the country, the same thing also happens between students from same ethnic groups in universities.

### 2.3 Consequences of ethnic violence in Ethiopian universities

In recent years, public universities have seen an escalation in ethnic tensions, resulting in damage to property, interruption of the teaching-learning process and, sadly, risk to students’ lives. Between 2018 and 2019, campuses were temporarily closed. Many students left university and some students were killed. Since September 2019, many students have been killed and injured, setting off a series of conflicts and causing widespread tension in public universities. Clashes have occurred, classes have been interrupted and students who belong to minority groups in the region where their university is located have had to barricade themselves in classrooms and auditoriums. Some had to seek refuge in churches, mosques and with residents in local communities, and some managed to go home (Yadessa, 2018).

## 3. Findings and discussion

After considering the data collected through the semi-structured interviews of the selected respondents, the following are the findings of the research on the role played by selected Ethiopian universities in accelerating and/or calming ethnic violence.

### 3.1 Accelerating factors

#### 3.1.1 Back to ethnicity and the political architecture in Ethiopia

The previous Ethiopian People’s Revolutionary Democratic Front and the current Prosperity Party both practice an ethnic-based federal system of Government. Despite the fact that the initial reason for choosing this federal structure was there cognition and accommodation of diversity and to improve equality among the different ethnic groups, the practical reality in terms of political strategy has been the reinforcement of ethno-national sentiments and deepened divisions along ethnic lines. It is becoming more and more evident that many people’s first allegiance is to their ethnic group, rather than their country. This last assertion also has a constitutional basis because the Constitution of the Federal Democratic Republic of Ethiopia indicates that before claiming citizenship, one has to identify oneself as a member of one of the nationalities and peoples of Ethiopia, which in simple terms means ethnicity. Almost all of the students interviewed for the study indicated whether they like the system or not, and said that they had identified and sought to kind of membership with students from the same ethnicity in order to defend themselves in case of danger.

Ethiopian politics is increasingly dominated by competition between the two largest ethnic groups, Amhara and Oromo. “These conflicts on campus are just a reflection of political rivalries between two ethno-nationalist groups: Amhara and Oromo,” said Zelalem Eshetu, a law lecturer and university attorney at Wollo. “They use the campus as an instrument to exert pressure on the government.” (Gardner, 2020).

Universities, where there are students whose social interactions are framed by negative connotations of ethnic ideologies and preyed upon by politically and economically motivated elites who consider themselves as agents of their ethnic groups, are breeding grounds for ethnic conflicts.

#### 3.1.2 Weak educational policy

The previous education policy mainly focused on constructing buildings rather than on the minds of the students. Of course, this addressed the problem of accessibility to schools for students, which in turn helped to address issues such as rape and abduction. But it failed to educate students with Ethiopian moral standards and our forefathers’ social values that kept the country intact during difficult times.

Whether there is a legitimate cause or not, it is difficult to justify ethnic violence, whether it is inside or outside of universities. However, what we are witnessing as a society is that we feel the pain if the victim is from our ethnic group and chant with happiness when it is not ours. Hence, it was

a numb education policy that sucked our social values from our youth or did not teach them these values because this was not considered as an objective.

Though it will take time to see the fruit, the new education road map has been designed with a purpose of promoting critical thinking and building a citizenry with strong ethical and moral values, based on the pursuit of justice, peace and unity in diversity, taking in to account the indigenous social values.

### **3.1.3 Centralized, politicized and corrupt administration**

#### **3.3.3.1 Centralized administration**

Yet another very strong mechanism of State control over universities is the appointment of the top management. Governments may use mechanisms to make sure that the top management positions of universities are filled by individuals who are committed to the will of the Ministry of Science and Higher Education. The procedures provided in the Higher Education Proclamation No. 1152/2019 for the selection and appointment of board members, presidents and vice presidents of public universities reveal that the Government is directly or indirectly involved in the appointment of each.

According to the Proclamation, the board, the supreme governing body of a public institution, has seven voting members and is accountable to the Ministry of Education. Four of the board members, including the chairperson, are directly appointed by the Minister of Education. The president and the vice-presidents area appointed by the Minister from a short list of nominees provided by the board after passing through preliminary competition. Similarly, the board may remove the vice-presidents from their positions and the president in some exceptional cases. In a nutshell, these complex relationships ensure that, by law of transitivity, the preference and ideological predispositions of individuals in top management of public universities originate from one source: the Ministry of Science and Higher Education. This makes the issue of accountability and transparency in handling ethnic conflicts more complicated.

#### **3.3.3.2 Politicized administration**

“The whole idea of establishing campuses all over the country was to bring federal institutions closer to the people, to promote national cohesion”, said Zemelak Ayele of Addis Ababa university Centre for Federalism and Governance. But over time all universities have become more and more ethnically homogeneous. That is where the problem is (Gardner, 2020). When most of the authorities in the university are predominantly from that area, you do not have a place to complain about your marginalization.

Campus life is hyper-politicized. Political parties have close links to universities, with many lecturers doubling as party members. One of the current sources of political activists is universities. It is normal to have a political opinion while being a lecturer, a student or an administrative employee, but the issue will rise when this is manifested in the routine obligations which emanate from obligations related to the university. Hence, there are some people who are using university resources to achieve their political goals. In some cases, universities are aiding them in sponsoring and coordinating conferences which have themes based on these people’s agendas.

#### **3.3.3.3 Corrupt administration**

In an environment of disorder, it is very difficult to put into practice even the simplest changes. Many of the policy prescriptions for rooting out corruption and establishing good governance are merely ideals for many states that are in the throes of conflict or emerging from it. While corruption is not the only benchmark related to the fragility of a state, many of those involved in peace building work are increasingly recognizing that corruption can be a major factor in preventing a stable peace from emerging, which benefits the individuals who are responsible for the conflict in the first place (United States Institute for Peace, 2010).

Corruption in the university setting can be manifested in different ways, but for the purpose of this study let us focus on practices of corruption around administrative organs of universities. According to the respondents, there are high practices of corruption within universities, so much so that it is considered normal. It is difficult to find a person who is a good example and can inspire students when the value of hard work is discarded and the culture of corruption prevails. Corrupt officials may not seriously engage with addressing violence because it gives them more opportunities to steal.

### **3.3.4 Culture of impunity**

The Ministry of Science and Higher Education has formed a committee to prevent the recurrence of unrest in Ethiopian universities, as well as to facilitate the return of 35,000 university students to their studies (Agade, 2020).

Further, it was indicated that the Ministry of Science and Higher Education has taken various disciplinary measures against hundreds of university staff (40 teachers) and students (640) who are suspected of involvement in unrest as part of measures to combat violence in Ethiopian universities (Agade, 2020). In addition, at universities, students were penalized with sanctions ranging from last warnings to one-year suspensions. This seems to be a good move by the Ministry and the universities. However, it has three problems. First, the teachers who were actively engaged in the violence and were caught by police were released as soon

as the violence was handled. Second, the press release says the Ministry has taken measures and did not clearly explain the specific measures it undertook. Third, despite proclaiming that measures were taken with regard to 640 students, the measures were not implemented and almost all students continued their education as soon as classes were resumed. Here, the claim of the universities for letting these students continue their education was that it was due to the change of curriculum and the closing of the schools after the surge of COVID-19 in the country. However, this has created a fertile ground for the emergence of a culture of impunity and encourages others to get involved in future conflicts because they have seen no one get punished for taking part in a crime.

This has been aggravated by the actions of the Federal Police Commission, which was involved in the investigation of the violations, especially the cases of the killed students, but still has not published a report of the assessment.

### 3.3.5 Weak infrastructures

Ethiopia's higher education sector has been characterized by remarkable expansion over the last 25 years. In less than three decades, Ethiopia has moved away from an elitist university system towards mass public sector (inclusive) universities. The liberalization of Ethiopian higher education (with the maximum enrolment of students) is seen as one way of addressing issues of equity. This effort also indicates the Government's commitment to realizing citizens' right to education. However, despite its benefits, it has considerable negative implications, particularly in terms of the availability of the necessary infrastructure, such as water, electricity, libraries and dormitories. Teaching students without the provision of this necessary infrastructure will exhaust them and make them vulnerable to those that want to instigate conflict.

## 4. Conclusion and the way forward

### 4.1 Conclusion

Historically, Ethiopian higher education institutions have been the main source of leaders for both the ruling and opposition parties. Ethiopian higher education has been the breeding ground for would-be leaders of the country. Traditionally, the agenda was not limited to ethnic identity. Rather, the agenda was mainly national. But since the implementation of an ethnic-based federal government structure, the agenda of most political parties is based on the interests of their ethnicity.

This paper has primarily focused on exploring whether universities are accelerating or calming ethnic conflicts. It has done so by selecting four public universities in the country where such conflicts are a regular occurrence. In

spite of the fact that the initial aim of the ethnic-based federal structure was the recognition and accommodation of diversity and to improve equality among the different ethnic groups, the practical reality resulting from this policy has been the preference of ethnicity over citizenship. This encourages occurrences of ethnic violence because there are groups that will benefit from this. Further, intensified by our weak educational policy, which lacks the merit of creating rational generations equipped with our social values, universities have become a fertile ground for the intensification of such violence. In addition to this, the existence of centralized, politicized and corrupt administration, a rampant culture of impunity and weak infrastructure in universities are creating perfect environments for the acceleration of ethnic-based violence.

### 4.2 The way forward

Based up on the discussion above, the following are possible short- and long-term recommendations for tackling the problem of ethnic violence in Ethiopian universities.

Short-term recommendations:

- Decentralize the administrative structure of universities
- Announce the identity of perpetrators of violence, who should be held accountable
- Identify areas that are prone to such violence and address the issues before they spread to other institutions
- Focus on solving the problem of the weak infrastructure of universities

Long-term recommendations:

- Work towards the consideration of an inclusive federalism structure, because the ethnic-based federalism system has been the root cause of the problem
- Establish strong institutions that can implement the new education policy
- Work to regenerate our social values, which sustained the country for centuries



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# Anti-Corruption Measures Adopted by Higher Institutions of Learning in Cameroon

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## ABSTRACT

The objective of this paper is to analyse the effectiveness of the anti-corruption measures put in place by the Ministry of Higher Education in Cameroon, and their implementation by selected public universities. These universities are the University of Dschang, the University of Douala and the University of Bamenda. Reference shall also be made to other universities in the country. These universities have been chosen because they are amongst the largest in Cameroon and because of the availability of data. Analytical methods and interviews were used to evaluate the implementation of the anti-corruption measures

adopted. The findings of this paper reveal that much has been put in place to fight corruption in higher education institutions, but the phenomenon still persists, with deleterious consequences for the quality of education goods and services. Sincerity and political will are needed to combat corruption in higher education.

## KEY WORDS

»» Corruption, anti-corruption measures / Ministry of Higher Education / Cameroon / Sustainable Development Goals

## 1. Introduction

Cameroon is one of the six Central African countries that make up the Central African Economic and Monetary Community, with its strong cultural and linguistic diversity highlighted by the use of English and French as official languages. The country is divided into 10 regions: two are English speaking and eight are French speaking. Cameroon has eight public universities,<sup>21</sup> with French being the main language of study, with the exception of the British-modelled University of Buea and the bilingual University of Bamenda, founded in 2011. State control is emphasized in these institutions: the Minister of Higher Education is the chancellor of all the State universities, while vice-chancellors or rectors are appointed by presidential decree. According to the 2019 Corruption Perception Index of Transparency International, Cameroon is ranked 153<sup>rd</sup> out of 180 countries (Transparency International, 2020). With 25 points out of 100, the country is ranked as the 28<sup>th</sup> most corrupt country in the world, taking into account corruption in the political, economic and educational spheres. Despite the progress made to fight corruption, the country lost over 17 billion XAF to corruption in 2020 (CONAC Report's on the 24<sup>th</sup> September, 2021, (Xinhua, September 24, 2021). With corruption being acute and its consequences grave,

measures to curb its spread, particularly in the educational sector,<sup>22</sup> by both public and private bodies is vital. This ranking concerns Cameroon in general and higher education in particular.

Corruption is endemic in higher institutions of learning in Cameroon. It has eaten deep into the marrow of most officials and has the potential to prevent the successful implementation of all the 17 Sustainable Development Goals. Peace, stability, human rights and effective governance, all based on the rule of law, are key to free higher education institutions and for sustainable development. Sustainable Development Goal 16 targets the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all and the building of effective, accountable and inclusive institutions (higher education) at all levels. All of this could be better achieved in a corruption-free society and education sector in Cameroon. This paper focuses specifically on anti-corruption measures put in place by the Ministry of Higher Education to fight corruption in the education sector. In the universities taken into consideration for this study, different measures or strategies to address the issue of corruption include the implementation of anti-corruption committees and units by the Ministry of Higher Education. Regrettably, they have been largely unsuccessful

21. The eight public universities are: the University of Buea, the University of Bamenda, the University of Douala, the University of Dschang, the University of Maroua, the University of Ngaoundéré and the University of Yaoundé I and the University of Yaoundé II.

22. It is important to mention here that there are a good number of private higher institutions of learning in Cameroon, but this study centres on public universities.

(Atsu Ayee, 2016, 5). Corruption is hence a primary cause of poor educational outcome for students. This corruption includes the diversion of school resources into private pockets, nepotism and favouritism (e.g. putting unqualified lecturers in classrooms and unqualified administrators in offices). Also, corruption forces some students to drop out when their exam results go missing in the system<sup>23</sup> and also reduces the amount of funds available for development (Chimewie and Nweke Prince O, 2016, 4-5), which escalates poverty. With the consequences of the above-listed acts of corruption grossly affecting the output of public universities, in terms of the quality of students sent into the job market and the civic responsibility of citizens in performing their duties, it is important that strict measures are employed to address the situation, such as in other developing countries. This is the reason why the Ministry of Higher Education has taken certain measures to curb the spread of corruption in the university sector, with these measures to be enforced by the universities.

This paper therefore has as a primary focus an analytical dissection of anti-corruption measures put in place by the Ministry of Higher Education to fight corruption in the education sector in Cameroon. For the universities considered in the framework of this study, different measures are being employed, although the strategy of implementation basically remains the same. Other measures put in place by the Ministry, such as the creation of anti-corruption committees and units, are general, although regrettably they have largely been unsuccessful (Atsu Ayee, 2016, 5). The paper begins by looking at the definition of corruption in education and describing the various forms of corruption and their causes. Then, it proceeds with the anti-corruption measures adopted by the Ministry and implemented by the universities. In its conclusion, the paper suggests measures to minimize corruption.

## 1.1 Methodology and justification of the paper

The information used for this paper is drawn from desktop research (a literature review of published works) on corruption in higher education and from media reports, conversations with people affected by corruption in Cameroon and knowledge accumulated through years of experience. The forms, causes and effects of corruption and the measures put in place to combat corruption within higher education are analysed. Anti-corruption measures are national policies adopted by the Ministry of Higher Education. The paper assesses the effectiveness of the implementation of these measures by the selected universities.

23. Financial and sexual gifts are demanded from them for their results to appear in the system.

## 2. Corruption in institutions of higher education

There is no universal definition of corruption, according to Mua (2015), because of difficulties rooted in legal and political considerations, and different attitudes and customs in different cultures (Atsu Ayee, 2016, 15). The definition of corruption is not simple; different authors have defined the term based on their areas of study, although common features do arise.

### 2.1 Definition of corruption

According to Shleifer and Vishny (1993), corruption is “the sale by government officials of government property for personal gain”. Personal gain represents direct financial benefit accumulated by government officials or politicians. Bardhan (1997) defines corruption as the “use of public offices for private gain” and the United Nations Development Programme (2004) defines it as “the misuse of entrusted power for private gain, by means of bribery, extortion, trading of favours, nepotism, fraud, and payments for facilitation or embezzlement.” Also, corruption is the violation of obligations of probity, fidelity and impartiality in the exercise of a public service, to the detriment of the user. Corruption is said to have taken place when an individual is paid to perform or refrain from performing their duty with either promises or presents. Corruption is also deemed to have occurred when an individual pays a compliant professional to do their work or to refrain from doing so (Titi Nwel, 1999, 14).

The Anti-Corruption Unit of the Faculty of Law and Political Science at the University of Bamenda describes corruption as the “practice of misusing one’s power and position to achieve illegal ends and abuse of entrusted power for private (illicit) gains”. This includes “Paying for something one is entitled to get vs. paying for something one is not entitled to get. Grey areas: lobbying gifts. Criteria: reciprocity, accountability and biased decisions” (University of Bamenda anti-corruption committee fliers).

Hallak and Poisson (2002) define corruption in school as “the systematic use of public office for private benefit, whose impact is significant on the availability and quality of educational goods and services, and as a consequence on access, quality or equity in education.” Denisova-Schmidt (2018a) on her part defines it as “the lack of academic integrity”. Mr. Garga Haman Adji<sup>24</sup> describes the act as such: “Corruption is the result of a conscious act generally for money, performed outside legal, social and moral or

24. A presentation during the workshop on corruption organized by Gerddes-Cameroon on 24 March 1999, Copied in GERDDES-Cameroon-Pierre TITI NWEL (1999), Corruption in Cameroon. FRIEDRICH-EBERT –STIFTUNG, p. 14.

spiritual norms: the corrupter and the corrupted violate these norms in a pre-meditated manner for their own concrete or abstract interests.” (Titi Nwel, 1999, 14-15).

An analysis of the above definitions shows that there are few differences in the wording and the ideas are approximately the same (Denisova-Schmidt *et al.*, 2016). A number of elements linked with corruption can be picked out from the above definitions. These are illegal or illegitimate action, hidden activity, an offence, the aim of personal or political gain, deviation from commonly acceptable standards of rectitude and integrity expected of persons in authority, and the promotion of private rather than public interest. Furthermore, corruption is a State-society issue because public sector corruption is believed to be a more fundamental issue than private sector corruption, and because controlling public sector corruption is a precondition for controlling private sector corruption (Atsu Ayee, 2016, 16). Thus, the definition of corruption in education derives from the more general set of corruption issues (Heyneman, 2004). All in all, we can conclude with the reasoning of Bardhan (2006) that “increasing corruption is taken as an indication of a sort of moral decay. Education corruption might occur with or without participation of the students, although both types can influence young people either directly or indirectly” (Denisova-Schmidt *et al.*, 2016). Thus, this paper shall adopt the definition of corruption as lack of academic integrity with an effect on the availability and quality of educational goods and services, and on access to and equity in education.

## 2.2 Presentation of corruption in education

The objective of this section is to help understand the problems to be tackled in dealing with what Atsu Ayee (2016, 8) calls “the value of chain” of corruption, reviewing the definition, forms, causes, etc. of corruption. Corrupt procurement practices and false maintenance costs, engagement in academic fraud, payment for degrees and certificates, extortion of money from students and sextortion<sup>25</sup> (International Association of Women Judges, 2012, 5) are widespread. The Anti-Corruption Unit of the Faculty of Law and Political Science at the University of Bamenda includes the following in its description of corruption in education:

- Ghost teachers, private tutoring, unofficial fees and embezzlement of school resources and grants
- Selling of exams and other marketable information, selling of diplomas, etc.

25. Sextortion is the abuse of power to obtain a sexual benefit or advantage. In effect, sextortion is a form of corruption in which sex, rather than money, is the currency of the bribe. Sex + corruption = sextortion.

- Editorial misconduct in academic journals and ghost authorship (here it is noted that Denisova-Schmidt *et al.* (2016) question why faculty members publish in exploitive journals, falsify data, employ professional ghost-writers and steal papers submitted to them for review and publish them as their own)
- Plagiarism (here it is noted that Denisova-Schmidt *et al.* (2016) confirm that this corruption takes place in both private and public institutions)
- Sexual harassment by lecturers
- Financial mismanagement and procurement fraud
- The monetization of recruitment, promotion, assignments and appointments, as well as the over-invoicing of payment vouchers, trade in scholarships and age reduction

Other aspects of corruption in higher education that should be addressed include the fact that some lecturers take longer to correct students’ work or delay assessing them in favour of work from their children, relatives, close friends, own personal students or rich students, or block students altogether.<sup>26</sup> Similarly, Banerji (2015) says corruption in Cameroon’s higher education institutions means exchanging money for marks,<sup>27</sup> tutors sexually harassing students in exchange for marks, turning a blind eye to absenteeism of students and to assessment for financial and sexual rewards, lecturers deliberately failing some students for personal reasons, some supervisors rejecting master’s and PhD dissertations and theses of their students unless financial or sexual favours are offered,<sup>28</sup> and the recruitment of lecturers on the basis of favouritism or bribery. In short, some supervisors ask their students directly or indirectly for money or sex (a bribe) before their theses or dissertations are assessed.<sup>29</sup> These points therefore attest to the

26. There is a hidden form of corruption here, which is bribery. From the interviews carried out, such delays are a “hidden call” for bribery by supervisors. Supervisors use this delay as a mean to indirectly ask students to bribe them to assess and correct their work. This is visible in most of the universities in this case study.

27. This issue of missing student marks and trading in grades are common in public universities. Supervisors ask for bribes to release grades and students who hardly attend classes buy grades. A level two student at the University of Douala reported the following experience: “I wrote the first semester exams, but my results were not out. I addressed a complaint to the authorities that be, no positive response. I was asked to go to the computer unit in charge of entering marks and verify. One of the state employees told me to bring 150,000 CFA francs for my results to be released.”

28. A student revealed in an interview that their supervisor had been demanding an intimate relation from the first year they had enrolled at the university until the doctorate level, where they were removed from the programme because they refused to have sex with the lecturer.

29. From an interview with a student from the University of Dschang: “For five years now, my supervisor has never received my PhD work because I have refused to go out with him.” Another student from the same university said: “My work has not been moving. I was told I have to motivate my supervisor with wine. I bought a good bottle of wine for him. Little did I know that this wine is money I have to give him. My name was removed from the PhD programme.” There are many examples of similar cases involving at the PhD level, where supervisors reject work and say that the students are not working.

argument that corruption is embedded in universities but it is hard to track and measure.

## 2.3 Forms of corruption

Many people believe that corruption occurs at times when the benefit from it outweighs the punishment. Just like in other areas, corruption in higher institutions of learning has a common type and can take different forms (Omar, 2018, 173). Denisova-Schmidt *et al.* (2018), United Nations Development Programme (2015) and Tangumokem (2018) say that corruption is a generic term which involves a range of actions such as favouritism, nepotism, advantage granting, cronyism, extortion, collusion, abuse of discretion, gift-giving and patronage embezzlement. The different forms of corruption include the following:

- Embezzlement or misappropriation of public funds or property (M. Freckleton, A. Wright & R. Graigwell, 2012). Myint (2000) describes it as the appropriation of public assets and property for private use. This involves stealing government money or property or the misuse of funding allocated for university operations, such as the diversion of funding provided for university restaurants. As a consequence and due to a lack of funding, the quality of the food offered is poor.
- Another form of corruption is fraud, which involves cheating. Documents are falsified, names are duplicated to generate double salaries and falsified certificates for promotion are produced. Also, diplomas become a commodity, which defeats meritocracy.
- Tribalism and nepotism are common in higher education institutions in Cameroon. For instance, places at the University of Dschang are unofficially reserved for students from the West Region. The use of a similar dialect prevents students from other parts of the country from accessing this institution. Those with power employ mostly their relatives and close friends.<sup>30</sup>
- Bribery is common. Most staff recruitment involves what is known as the “oiling of lips” or “parle bien”. The recruitment of assistant teaching staff in some of the faculties, such as law, is not always advertised openly, or when it is, it is subject to financial transactions. Also, the recruitment process always takes a long time. For example, the selection for the second phase of the 2,000 positions offered to PhD graduates<sup>31</sup> in public universities takes almost one year. The hidden truth behind this is the “call for bribery”. Hiring relatives, friends and acquaintances through favouritism and bribery is a common practice (Orkodashvili, 2009, 17).

30. The University of Dschang is not the only example of such behaviour; other public universities or private schools show similar attitudes.

31. A special recruitment programme for university teachers in public universities was launched in 2019, to run for three years to 2022.

- Extortion is widespread. Many officials in schools and universities wilfully commit errors on civil servants’ or students’ documents to extort money (Wiyghan, 2014a, 151; Wiyghan, 2014b, 156).

## 2.4 Causes of corruption

Governments of many countries including Cameroon have adopted different strategies and different actors have set in to fight against corruption, but corruption still persists. The Anti-Corruption Unit of the Faculty of Law and Political Science at the University of Bamenda lists the causes of corruption in higher education as the high stakes of educational opportunity; unequal provision of access to wealth and sources of wealth; tribalism and nepotism; allocation of funds; complex administrative layers; inadequate monitoring; lack of awareness; authority in the wrong hands; a lack of effective political leadership; diminished patriotism; and inflation. Omar (2018) points to the salaries of educators, which cannot support even basic living or are perceived as unfairly low relative to the workload, as a reason why educators may use their positions of power to extract payments and other benefits and as a main indicator of corruption in higher education institutions. The complexity of education and a lack of transparent governance are other indicators (Trines, 2017). The importance of education to the society attracts much government budgets aim at providing high quality services to HEIs. This is one of the breeding grounds of corruption.

Interviews carried out at the University of Douala reveal that delay in the payment of wages and the allowances of part-time lecturers is a cause for concern. This university employs part-time lecturers who can go for years without any allowance, wage or payment. Interviewees indicated that some of them have been teaching at the university for close to two years without having been paid, for the courses they have taught, the exams they have taken or the correction of exams. Visiting lecturers are treated no differently. From the interpretation of the data gathered, some argue staff are bound to take whatever offer is made to them by students, whether it is the selling of exam questions or marks. In 2019 and 2020, the Ministry of Higher Education promised to ameliorate the working conditions of such staff, but the situation remains the same. A doctoral student reported<sup>32</sup> that: “corruption spiral is another cause whereby those who got their positions through corrupt means and connection by paying bribes are bound to be corrupt too so as to recover the huge sums of money paid.” Discussions with some students of the Higher Institute of Management and Entrepreneurship at the University of Douala confirmed this. The students said that “it is difficult for corruption to

32. Nestone Munang, Faculty of Management Sciences, University of Dschang, 24 March 2021.

end in Cameroon". Victims of corruption are even known to go as far as to improve corruption techniques and use them for their own gain (Tah, 2015, 10). Tackling the root cause is the only way to curb corruption. This can be done only if everybody has the will to stop it. Corruption in higher education hinders access to, equity in and the quality of education (Orkodashvili, 2009, 2). What are the anti-corruption measures put in place to contain this scourge?

### 3. Measures taken to combat corruption in higher education institutions

Corruption defeats development, causes insecurity in the country and leads to the violation of human rights and the rule of law. Combating corruption is key to moving towards development, promoting peace, security and respect for the rule of law, and strengthening human rights. This section examines the anti-corruption measures adopted by the Ministry of Higher Education to fight corruption in the higher education sector. These measures are enforced by the various universities. There are global joint efforts to fight corruption, which is important because of the continued debilitating and corrosive consequences of corruption on governance, security and development (Atsu Ayee J., 2016, 5) and on the quality of goods and services of education.

Omar (2018) advances that solving the problem of corruption in higher education is similar to solving the problem in other sectors since abuse of authority in the field of higher education is governed by the same laws and regulations as in other parts of the economy. On the other hand, there are certain preventive measures specific to corruption in education. Heyneman (2004) states that effective reforms in the education process are, possibly, able to minimize the dangers of corruption in higher education institutions. These reforms are broadly divided into two categories: firstly, structural reforms necessary to reduce the opportunity for corruption; and secondly, improvements in adjudication and management to help in the implementation of measures to fight corruption in the education process<sup>33</sup> (Omar, 2018, 175). Both are relevant to this study.

The International Monetary Fund (IMF) in its country report on Cameroon encourages the country to enact an anti-corruption law. IMF asks Cameroon to adopt strong structural reforms to facilitate the development of the private sector and "job-rich growth." It also suggests a modernization of the legal framework (GAN Integrity, 2020). Universities and the Government have jointly taken stringent measures to fight corruption. The measures can be divided into two broad groups, those taken by the universities and those taken by the Government.

33. Sanctions are required as punishments when offences occur.

### 3.1 Anti-corruption measures taken by the Ministry of Higher Education

Anti-corruption measures are a national policy adopted by the Ministry of Higher Education and implemented by public universities. These measures range from establishing committees within schools and creating fliers and posters for classrooms and offices to enacting laws and creating institutions to enforce measures.

Following a reform from the Ministry of Higher Education, all State universities have established sub-committees or anti-corruption units to fight against corruption and to promote ethics, with membership spread throughout all the faculties. The University of Buea, for instance, has established an anti-corruption and ethics sub-committee represented in all its faculties. Actions and measures to control the spread of corruption in universities include:

- The establishment of a well-organized administration with clear and precise functions
- The sensitization of students by providing anti-corruption message boards in all amphitheatres
- The creation of an integrity club where leaders of integrity are voted into office to educate students on good moral and ethical values
- The creation of an anti-corruption unit at the level of the chancellery that helps to report all corrupt practices
- The adoption of measures, for example, the decision against examination malpractices to help curb the spread of corruption within the university
- The implementation of regular controls on all services to ensure that assigned jobs are done in accordance with national and international norms
- The provision of anonymous message boxes in all faculties to facilitate the reporting of corruption<sup>34</sup>

Also, the university administration operates according to a hierarchical chain, headed by the rector and the deans at the faculty level. This therefore implies that the subordinates respect their hierarchies. The deans control the faculties and report on how their budgets are spent to the rector, while the rector controls the university budget and reports to the Ministry of Higher Education.<sup>35</sup>

Also, most faculties of State universities have made it obligatory for every PhD thesis to be written using anti-plagiarism software programmes.<sup>36</sup> At the same time, most supervisors have been schooled on how to curb plagiarism. So, before a thesis is accepted for assessment,

34. From an interview with Kutnjem Hamza Monkaree, a member of the Anti-Corruption Committee of the University of Dschang, held on 5 March 2021, and from discussions at a conference held at the University of Dschang by the Committee in 2020.

35. *Ibid.*

36. For instance, at the University of Yaoundé I and at the Faculty of Letters and Social Sciences at the University of Dschang.

the supervisor makes sure that the student has respected the anti-plagiarism rules. This shows that faculty members are serving as role models to the students and creating a good platform for integrity and for academic prosperity and posterity. Denisova-Schmidt *et al.* (2018) underlines that faculty members should serve as role models. If they cheat, they cannot expect better from their students. The author suggests that a large number of external proctors for supervising examinations might be an effective remedy, as could be the use of randomized seating and of several versions of the same examination (if possible) to prevent cheating.

Corruption monitoring activities is one of the means students can use to fight corruption, by focusing on victims of corruption and through the provision of a whistleblowing mechanism. The whistleblowing system generated 112 claims of corrupt or indecent behaviour in 2013 and led to the firing of four staff. Cases were brought against a total of 15 staff, who were subject to administrative sanctions in 2013 in the Western parts of Cameroon (Banerji, 2015).

### 3.2 Laws as a means to fight corruption

Criminal laws have been put in place by the Government of Cameroon to criminalize those involved in corrupt practices, including employees in public and private universities in Cameroon. The main laws that sanction corruption in the country are the Constitution of Cameroon, the Criminal Code and the Code of Criminal Procedure.

#### 3.2.1 Constitutional safeguards: declaration of assets

To curb corruption within higher education institutions and Cameroon in general, the Constitution has made it mandatory for every top government official (that is any public servant or government employee, including those in public universities) to declare their assets and property at the beginning and end of their tenure of office (Titi Nwel, 1999, 19). This does not exclude rectors or vice-chancellors, managers of public votes and property, and deans. Nevertheless, many still take office without having respected this precondition. It is stated in section 66 of the Constitution that:

The President of the Republic, the Prime Minister, Members of Government and persons ranking as such, the President and Members of the bureau of the National Assembly, the President and Members of the Bureau of the Senate, Members of Parliament, Senators, all holders of an elective office, Secretaries-General of Ministries and persons ranking as such, Directors of the Central Administration, General Managers of public and semi-public enterprises, Judicial

and Legal Officers, administrative personnel in-charge of tax base, collection and handling of public funds, all managers of public votes and property, shall declare their assets and property at the beginning and at the end of their tenure of office.

The other category of persons to whom the provisions of section 66 of the Constitution apply to and the conditions of implementation are determined by law. As such, section 2(2) of Law No. 2006/3 of 25 April 2006 relating to the Declaration of Assets and Property includes rectors of State universities and central administration officials ranking as Central Administrative Directors as those in State universities that have to declare their assets. Section 2(3) of the Law provides that “any authorizing officer in association or private body that receives public funds in the form of subventions or donations shall also declare his assets and property at the beginning and the end of his tenure of office.”

This section is reinforced by section 184 of the Penal Code which is discussed later. It should be noted that the law on the declaration of assets has been adopted, but faces problems relating to application and the putting in place of some of its commissions. One of the reasons for this is that a commission to enforce the law is yet to be created by presidential decree. There is a lack of political will to enforce the laws on declaration of assets. The possible reason for this is that the authority in charge of creating the commission is affected by some of the provisions and is thereby reluctant to put in place the commission.

#### 3.2.2 Criminal Code of Cameroon

The Criminal (or Penal) Code of Cameroon, which was revised in 2019, criminalizes corruption, extortion and bribery. Thus, the Code makes provisions under which those guilty of corruption, whether an act or omission in educational or non-educational sector in any of its forms, can be punished. This sanction is stated in section 134, as follows:

Any public or government employee who, for himself or for a third party, solicits, accepts or receives any offer, promise, gift or present in order to perform, refrain from performing or postpone any act of his office shall be punished with imprisonment for from five to ten years and with of fine of from two hundred thousand to two million francs.

Also, indicated under this section is anyone who receives a reward as remuneration for having already performed or refrained from the performance of an act. These payments and gifts are also addressed in legislation in Cameroon, yet the insufficient implementation of anti-corruption legislation, coupled with the impunity enjoyed by public officials, has

exacerbated the levels of corruption in the country, including in schools (GAN Integrity, 2020). The Penal Code goes as far as punishing the corruptor. It states that:

Whoever makes promises, offers, gifts and presents or yields to requests liable to result in corruption in order to obtain the performance, postponement or abstention from an act or one of the favours or benefit shall be punished in a like manner as under section 134 (1) above whether corruption produced its effects or not.

This is punishable by a prison sentence of five to ten years, a fine ranging between two hundred thousand and two million CFA francs<sup>37</sup> and asset seizure. So, both the giver and the receiver are liable for corruption.

The legal domain has been reinforced by the fight against the embezzlement and misappropriation of university funds. Law No. 2011/028 of 14 December 2011, as amended and supplemented by Law No. 2012/011 of 16 July 2012, established the Special Criminal Court to fortify the fight against corruption. It reflected the intention of the Government of Cameroon to give the fight against corruption a special status and to speed up the handling of cases relating to organized economic and financial crimes (Agbor, 2017). The Special Criminal Court exercises exclusive jurisdiction over a specific class of offences committed in Cameroon, therefore marking it a special court for the fight against economic crimes. Section 2 of the 2012 Law states the jurisdiction of the Court as follows:

The Special Criminal Court shall hear and determine matters where the loss amounts to at least 50,000,000 CFA francs relating to the misappropriation of public funds and other related offences provided for by the Penal Code and International Conventions ratified by Cameroon.

The main task of the Special Criminal Court is to punish the misappropriation<sup>38</sup> of public funds and property when the damage suffered by a State university is over 50 million CFA francs. Where the amounts misappropriated are above 10 million CFA francs and less than 50 million CFA francs, the High Court has exclusive jurisdiction. Lastly, where the amount is less than 10 million CFA francs, the Court of First Instance hears the case.

Section 2 of the 2012 Law should be read in connection with section 184 of the 2019 Penal Code. A look at section 184 is relevant to this section and the topic in question.

It is stated in section 184 of the Penal Code that:

(1) Whoever by any means takes or keeps dishonestly any property, moveable or immovable, belonging to, in transmission to or entrusted to the United State, or to any authority of corporation either public or subject to the administrative control of the State, or in which the State holds directly or indirectly the majority of the shares, shall be punished:

(a) Where the value of the property is more than half a million francs with imprisonment for life; and

(b) Where the said value is half a million francs or less, but over one hundred thousand francs with imprisonment for from fifteen to twenty years;

(c) Where the said value is one hundred thousand francs or less with imprisonment for from five to ten years and with fine of from fifty thousand to five hundred thousand francs.

From the two sections, section 2 of the 2012 Law and section 184 of the Penal Code, one can conclude that Cameroon has adopted criminal sanctions to fight against corruption in general and in higher education in particular, although the fruits of this labour are still eagerly expected since the offence is hard to identify. One should also know that, based on the classification of offences in Cameroon, section 21(1)(a) of the Penal Code makes misappropriation a serious offence, punishable either by death or the loss of liberty for more than 10 years. Consequently, a number of arrests, prosecutions and convictions have taken place since this law became functional. The Court has tried a number of cases, including those involving Jean Marie Atangana Mebara (the former Minister of Higher Education) and Haman Adama née Halimatou Kangue Maonde (the former Minister of Basic Education) for the misappropriation of public property.

The primary objectives for criminalizing the misappropriation of public funds include the protection of the property of State universities and the upholding, promotion and protection of the integrity of university officials who occupy public office and conduct the business of the State universities (Agbor, 2017), as well as the upholding of respect for the rule of law, the maintaining of peace and the upholding of respect for the right to development.

The Penal Code also provides sanctions for those found guilty of examination malpractices or fraud at examination. So any person who commits frauds during an examination or a competition with the intent to procure their entry into any public service or any degree certificate or qualification issued by the State or by a public service, whether national or foreign, will be punished with imprisonment of one to three years or with fine of between 25,000 and two million CFA francs, or with both as laid out in section 163.

<sup>37</sup> See section 134 of the 2019 Penal Code.

<sup>38</sup> The Court is also works with the Audit Bench of the Supreme Court and the National Anti-Corruption Committee.

At the global level, the United Nations Convention against Corruption provides for preventive measures, criminalization and law enforcement, international co-operation, asset recovery and technical assistance and information exchange. Additionally, Sustainable Development Goal 16 includes a commitment to substantially reduce corruption and bribery in all their forms, which makes the Goal especially relevant in the context of higher education institutions in Cameroon.

Cameroon has also ratified the African Union Convention on Preventing and Combating Corruption, by means of Decree No. 2020/166 of 1 April 2020. This shows the country's commitment to combatting corruption in every sector, including higher education institutions.

### 3.3 Institutional development and anti-corruption units

There is a rising number of anti-corruption units in ministries, vice-chancelleries, faculties and departments, in particular in the selected State universities. The Government of Cameroon has very good policies on fighting corruption, which are realized through the putting in place of agencies and institutions. The following institutions and agencies have been created as means to fight against the virus that has eaten into the fabric of most State universities. Amongst these institutions are an ad hoc committee to fight corruption (1999); the National Anti-Corruption Observatory (2000); the National Anti-Corruption Commission (2006); the Special Criminal Court; the Supreme State Audit Office, whose role has been strengthened (Bechem, 2018, 1), the Financial Investigation Agency (2005), which combats money-laundering and the fraudulent movement of funds; the Audit Bench of the Supreme Court; the Public Contracts Regulatory Agency; and the Ministry of Public Contracts (Tangumonkem, 2018, 3).

Furthermore, most if not all ministries have formed anti-corruption units to monitor corruption. In line with the policy of the Ministry of Higher Education, universities have put in place anti-corruption committees and ethics or integrity clubs. These agencies and institutions are focused on stamping out corruption (bribery and extortion) that damages people's lives and obstructs social and economic progress (Landell-Mills, 2017).

Transparency is an indispensable tool in the prevention of corruption. As a way of demonstrating that the public interest remains at the core of decision-making, higher education institutions should make access to official documents a reality, by effectively implementing relevant freedom of information legislation (Dunja Mijatović, 2021). Despite corruption being a widespread issue, solutions are still in the development phase. To this end, Cameroonian universities can copy what has been developed in South

Africa, Brazil and India to help fight against corruption in higher education. Several measures were introduced in South Africa to ensure that funds reach the right schools, including the setting of objectives and transparent policy targets (United Nations Educational, Scientific and Cultural Organization (UNESCO), 2019). In Brazil, the creation of food school councils<sup>39</sup> has reduced the risk of misappropriation of food or fraud in food procurement by institutionalizing the process of continuous programme monitoring and accountability (UNESCO, 2019). As in India, Cameroon should display key information related to the daily functioning of schools (UNESCO, 2019). Other actions that have proven efficient in fighting corruption are school display boards,<sup>40</sup> local transparency mechanisms, appeal mechanisms, social audits and whistle-blowing mechanisms.

## 4. Challenges to the implementation and enforcement of anti-corruption measures

In spite of the efforts of the Ministry of Higher Education to fight against corruption in higher education institutions, the following observation is unmistakable: corruption is growing in universities exponentially and even seems to have become an accepted norm for a large section of the population. The following factors affect the implementation of anti-corruption policies and measures adopted by the Ministry. Corruption is hidden and so is difficult to detect with confidence, accuracy or a minimal level of resources (United Nations Development Programme, 2015, 11). Many instruments are missing in the anti-corruption framework in Cameroon, such as an anti-corruption law, while there is non-compliance with article 66 of the Constitution on property and assets declaration. Also, illicit enrichment is not criminalized and there is no legal protection for whistle-blowers, anti-corruption activists, investigators and journalists reporting cases of corruption (Andzongo, 2020). In addition, there is no specific legislation on access to information (Minang, 2016, 25), which therefore affects transparency and accountability relating to the use of school resources by those entrusted to manage them, causing anguish and dissatisfaction.

When people believe that corruption is widespread, it can lead to more corruption. Denisova-Schmidt (2018, 67-68) shows that in Ukraine, anti-corruption measures often fail because they are not seen as an instrument that helps people deal with the problems of everyday life.

39. These councils scrutinize school menus and their related expenses. They help reduce delays in the transfer of resources, cut down on operational costs and improve the quality of goods.

40. The display boards are available for the public to scrutinize, most often displayed in the school buildings with key information related to the functioning of the school, such as information related to financial investments and teacher attendance.

This is particularly true in environments framed by weak institutions, as stated by Marquette, H., & Pfeiffer, C. (2015).<sup>41</sup> Denisova-Schmidt concludes by cautioning those in charge of policymaking to recognize the important role corruption plays and develop effective alternatives to take its place. Thus, this consideration would boost the efficacy of anti-corruption measures enormously (Denisova-Schmidt, 2018, 67-68). Furthermore, there is lack of the development of the culture of integrity, transparency and accountability (Atsu Ayee, 2016, 6).

The courts are also responsible for the promotion of corruption. Badjang ba Nken says, as cited in Titi Nwel (1999) that:

Those who are responsible for punishing persons guilty of corruption generally fail in their responsibilities, that is, if they themselves are not actively involved in it. Some officials in the Supreme State Audit who are entrusted with the responsibility of overseeing the proper financial management of public and para-public institutions have practically been bought over by these institutions (offers of fuel, payment for car maintenance, etc.) to a point where they can only write positive reports in order not to fall out of favour with the heads of the enterprises that they control.

Most of these institutions, such as the National Anti-Corruption Commission, lack independence and are under the authority of the President, putting the impartiality of the institutions in doubt. That is to say, most of the members of these institutions are appointed by the head of the executive or the Minister of Higher Education,<sup>42</sup> who reports to the head of the executive.<sup>43</sup>

More so, the legal and regulatory systems are opaque and difficult to navigate. Corrupted laws, by-laws and regulations are written by corrupted people or by lawmakers that lack the requisite knowledge. Corruption of the best things gives rise to the worst (Al-Zoubi, 2013, 41). In addition, there exists a lack of effective regulations, insufficient law enforcement and significant delays in courts proceedings (GAN Integrity, 2020). Equally, there is insincerity and a lack of political will to fight corruption by the Government and higher education institutions in particular (Mua, 2015, 208). Tangumonkem (2018) maintains that the phenomenon serves as a breeding ground for social, economic and political unrest, undermining democracy and the rule of law while distorting national and international trade.

41. Cited in Denisova-Schmidt (2018, 67-68).

42. This is relevant to cases of corruption in higher education because most of people in positions of power are loyal to the rector and the Minister of Higher Education. It is difficult to investigate their corrupt acts and prosecute them.

43. This puts in doubt their independence and the effective investigation of any official at a university involved in corrupt acts.

Furthermore, corruption jeopardizes sound governance and ethics in the private sector and threatens domestic and international security.

## 5. Conclusion

There is growing worldwide concern over corruption (Myint, 2000, 33), which has attracted the attention of scholars, the international community, politicians and citizens due to its damaging and corrosive effects on politics, governance, peace, security, socio-economic development (Atsu Ayee, 2016, 5), the rule of law and human rights. No sector is left untouched. Bechem (2018) and United Nations Development Programme (2015) point out that the sectors that are most vulnerable to or notorious for corruption include education, including higher education, and law enforcement. As a result of the alarm raised regarding the damaging effects of corruption on higher education, the Ministry of Higher Education has put in place strategies to curb the “syndrome”. Therefore, this paper concludes by affirming that the Ministry of Higher Education has adopted anti-corruption measures to curb corruption in the higher education sector, but effective implementation is lacking. Corruption in all its forms is legally, morally and socially condemned because it is a denial of the constitutional or legal principles of the equality of citizens in rights and duties, of the free rendering of public services and of the promotion of the right to property (Titi Nwel, 1999, 14-15). Cameroon therefore needs strong higher education institutions void of corruption. Al-Zoubi (2013) argues there is need in the higher education institutions in Cameroon for more reform, democracy, freedom, equal rights, equal opportunity for jobs, transparency and accountability.

The Ministry of Higher Education has developed and adopted policies to fight corruption and it is the responsibility of public higher education institutions to oversee the implementation of these measures. To be effective, emphasis must be placed on tackling the root causes of corruption through economic, political and institutional reforms. Also, the salaries of those in the public sector should be improved and youth employment should be encouraged. Furthermore, institutions that have been put in place to fight corruption should be strengthened. Those in positions of power should be empowered with the right personnel and all the resources they need to effectively carry out their work. They should be free from executive interference. More so, persons that are found taking bribes should be dismissed from their jobs, while those caught giving bribes should be punished according to the law (Banerji, 2015; section 134 of the Penal Code).

This paper also suggests anti-corruption measures are implemented at universities, such as ensuring competitive procurement of school resources, shunning nepotism in

the hiring of teachers, preventing the skewing of research results for personal gain, setting clear timeframes for the assessment of students' work by supervisors and establishing a system where the dean's office receives notification when work is submitted to supervisors for assessment. The reason behind this is that most supervisors neglect or abandon students who are unable to meet their "hidden demands". A course on corruption in higher education institutions should be introduced to the education curriculum to create awareness among students of the ills of corruption. With these measures put in place, corruption can be eradicated.

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# Ending Human Trafficking and all Forms of Exploitation through Multiagency Collaborations

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## ABSTRACT

Human Trafficking (HT) is a social and multi-dimensional problem, which has multiple and complex drivers, including socio-economic, political and individual factors. Ending HT is embedded in different Sustainable Development Goals (including SDG 16). While eradicating the problem is highly challenging, multi-agency partnerships can develop comprehensive and complex responses beyond rescuing victims and prosecuting offenders. Yet, empirical data is still lacking to prove “what works” when working in partnerships.

An action research project is being undertaken to minimise such knowledge gaps in collaboration with a UK police force and a university. The project aims to produce pragmatic and evidence-based knowledge on the (i) design and implementation of an HT partnership; and (ii) its progress and development. The present study provides findings from the project’s first phase: the design and implementation of an HT partnership (within a police area with no previous HT partnership).

A partnership model, based on academic literature, was implemented. Partner agencies agreed to monitor and evaluate both the structure and the progress of the partnership. Data analysis (i.e., meeting minutes, researcher’s project notes, surveys) examines (i) the needs and challenges experienced during the first months of working as a partnership; (ii) the suitability of the partnership’s model when promoting communication and collaborative work; and (iii) the role of research and universities in the development and implementation of an HT partnership. Findings have directed the partnership’s progress and development, minimised the knowledge gap and highlighted the value of research-practice collaborations to respond to complex social problems such as trafficking crimes.

## KEYWORDS

►► Human Trafficking / SDGs / Multi-agency partnership / Research-practice collaboration

## 1. Introduction

Human Trafficking (HT) is both a social and multi-dimensional problem, which has multiple and complex drivers, including socio-economic, political and individual factors (Tangen, 2020). Other than its criminality, deep-rooted challenges such as social inequalities, lack of job opportunities, political and military conflicts, family pressures, lack of education, high demand for cheap labour, or health/mental issues underlie the reality of human trafficking (Landman and Silverman, 2019; UNODC, 2008). HT has implications both at the social and economic levels and, inevitably, for the victims of the crime, who can suffer serious physical, psychological, social and economic consequences as a result of their experiences (M’Cormack, 2011). Ending HT is embedded in different Sustainable Development Goals (including SDG 16), and so responses to HT have been seen at a local, regional, national and

international level. While eradicating the problem is highly challenging, responses to HT need to be both comprehensive and diverse, involving different tiers of actions and agencies.

The potential of social and community networks (including companies/businesses and higher education) to respond to HT lies in the capacity of these networks to develop a much more comprehensive and complex response beyond rescuing victims and prosecuting offenders (Dandurand, 2017; Gardner *et al.*, 2020; Gerassi *et al.*, 2017; Rosenbaum, 2002). Specifically, higher education and research can play a pivotal role in informing the development of transformative and evidence-based solutions to complex problems and realities such as HT (Filho *et al.*, 2018; ICSU, 2015; Miller *et al.*, 2014). To this end, close collaboration between researchers and practitioners is critical to eradicating HT and all forms of exploitation.

## 1.1 Multi-agency partnerships to combat human trafficking crimes

Multi-agency partnerships “have gradually emerged as the preferred structure to enforcing human trafficking laws and rendering assistance to victims” (Huff- Corzine *et al.*, 2017, 246). Such collaborations have become common practice when responding to HT crimes across different countries (Clawson *et al.*, 2008; Farrell *et al.*, 2008; HM Crown Prosecution Service Inspectorate, 2017; HMICFRS, 2017; Wilson and Dalton, 2008); and both practitioners and academics have recognised its effectiveness and encouraged its implementation (Dandurand, 2017; Gerassi *et al.*, 2017). Such collaborations can vary in form and structure across the globe and within a country. However, they are usually formed by law enforcement agencies, social service providers, NGOs, local authorities and other stakeholders such as fire and rescue services (Gerassi *et al.*, 2017; Huff-Corzine *et al.*, 2017; Independent Anti-Slavery Commissioner (IASC) and University of Nottingham, 2017; Lagon, 2015). Working in multi-agency partnerships (where knowledge, intelligence, and expertise is pooled) can bring a whole range of opportunities beneficial in responding to HT crimes, such as promoting: (i) more intensive, innovative and comprehensive interventions; (ii) a more coordinated application of resources; (iii) access to multiple sources of intelligence (and the opportunity to share information); while also (iv) achieving a more unified prevention-prosecution-protection approach (Rosenbaum, 2002).

Research examining differences between local areas that have established multi-agency collaborations and those that have not (or when conducting pre and post evaluations of multi-agency implementations) have found that working in partnership appears to improve (i) the number of HT cases and victims identified (Farrell *et al.*, 2008); (ii) the capacity of law enforcement agencies to respond to trafficking crimes (by having in place protocols, training, procedures and more opportunities for intelligence and support from other agencies (Clawson *et al.*, 2006; Farrell *et al.*, 2008; Gerassi *et al.*, 2017)); as well as (iii) the safeguarding of victims (both in the number of victims safeguarded and type of support provided (David, 2007; Gerassi *et al.*, 2017; Matos *et al.*, 2019)). However, multi-agency collaboration is said to be more straightforward in theory than in practice (Harvey *et al.*, 2015). Barriers such as lack of trust, limited resources, different objectives and priorities, different procedures and policies, or a shortage of protocols for intelligence sharing, among others, have been found to problematise both the implementation and continuity of multi-agency collaborations (Clawson *et al.*, 2006; Dandurand, 2017; Farrell *et al.*, 2008; Gerassi *et al.*, 2017).

Within the last few years, multi-agency partnership arrangements have been increasingly established across England and Wales to enhance HT responses (HM

Government, 2020; Centre for Social Justice and Justice and Care, 2020). While these agreements are relatively new and diverse, they continue to evolve and increase in numbers. In 2017, a report was published jointly by the University of Nottingham and the Independent Anti-Slavery Commissioner (IASC and University of Nottingham, 2017). The report highlighted that despite most of the UK regions having some form of multi-agency partnership agreement in place, there appeared to be significant variations in terms of their maturity, consistency, coordination and purpose. A follow-up report (IASC and University of Nottingham, 2020) identified that most areas that in 2017 had no partnership agreement in place now had one. However, both reports highlight there is little evaluation done on partnerships so far established in the country to tackle HT, and there is little representation of academia within such partnership agreements. Hence, little is known about “what works” when working in partnerships, the challenges faced when starting such collaboration and the potential workable solutions that exist to overcome such challenges. The purpose of this papers is, therefore, to address the current knowledge gap and explore the role of research in supporting the development and work of a multi-agency partnership to respond to HT crimes.

## 1.2 Study background

In May 2018, the researcher was contacted by a police force in the UK to advise on developing a partnership to respond to HT crimes within an area that had no previous multi-agency collaboration in place. This presented an opportunity (i) to minimise the current research gap by scientifically examining the design and implementation of a multi-agency partnership; and (ii) to inform practice on how to better respond to HT. Collaboration began between the local police force and a university in the UK (which had the United Nations Academic Impact Sustainable Development Goal hub status<sup>44</sup> with responsibility for SDG 16: peace, justice, and strong institutions) to set up an evidence-based HT partnership, thus, becoming one of the very few HT partnerships (within UK) in which researchers and representatives of higher education institutions were actively involved in the collaboration from the very start (IASC and University of Nottingham, 2017, 2020).

## 1.3 Design and aim of the study

To facilitate the development of a partnership, an action research (AR) approach was implemented. The AR project aimed to:

44. The hub works to impact the complex challenges, targets and indicators of SDG 16 – to promote peaceful and inclusive societies for sustainable development through research

1. produce practical knowledge enabling professionals to work better in multi-agency partnerships when responding to HT;
2. contribute to the scientific knowledge by exploring best practices when working in multi-agency partnerships.

According to Lowndes and Skelcher (1998), any partnership goes through a life cycle in which the type and form of collaboration between partner agencies evolve and develop. In creating and starting a partnership collaboration, the willingness of partners to work together to achieve a common goal is critical. This stage is characterised by informal governance structures and high levels of flexibility in terms of resources dedicated (i.e., staff, time, money) and the type of actions taken by the partners. In contrast, as the partnership develops and consolidates, its structure evolves towards a more formalised and hierarchical governance structure with procedures and formal agreements in place. The AR project aims to produce practical and evidence-based knowledge in both stages: (i) the creation of an HT partnership; and (ii) its progress and development (i.e., consolidation of the partnership).

The present study, however, focuses explicitly on the initial stages of the partnership creation. That is the design and implementation of an HT partnership. Therefore, the present study will:

- identify the needs and challenges experienced during the first months of working as a partnership;
- examine the partnership structure and its suitability when promoting communication and collaborative work;
- explore the role of research and higher education institutions in the development and implementation of an HT partnership.

Ethics approval was obtained from the researcher’s Faculty Research Ethics Committee. The researcher was also vetted by the police force participating in the collaboration so that she could have access to police data.

## 2. Methodology

### 2.1 Action Research

AR is a cyclical process of planning, action and critical reflection (Lewin, 1946) that enables us to link “action” and “research” by “testing ideas in practice as a means of improvement and as a means of increasing knowledge” (Corbett *et al.*, 2007, 82). The significance of the AR lies in the strong collaboration between researchers and stakeholders (Reason, 2001). The collaborative nature of the AR approach allows stakeholders to understand better the different actions, events and progress, and

therefore, to jointly construct informed solutions to existing problems. However, to ensure a successful research-practice collaboration, constant communication and feedback are necessary (Bumbarger and Campbell, 2011). To that end, the roles of each of the members were clearly defined from the very start of the project. They were:

- *Researcher*: the primary role was advising, monitoring and evaluating the progress and impact of the partnership. Furthermore, as a member of the academic institution, she also facilitated and supported the development of action plans and the different actions taken by the partnership.
- *Research Advisory Board (RAB)*: The advisory board was formed by members of the police and representatives of the university. Their role was to oversee the process and provide constant feedback and advice (based on their professional knowledge and expertise) to the researcher’s suggestions on the partnership’s planning, implementation, and evaluation plan. Communication between the RAB and the researcher took place on a weekly basis to discuss and reflect on the progress and plan future actions.
- *Stakeholders*: they were the different partner members who, while being research participants, were periodically debriefed on the progress of the partnership and the academic findings.

Figure 1 shows a graphical representation of the AR project and the involvement of the different partners in it.

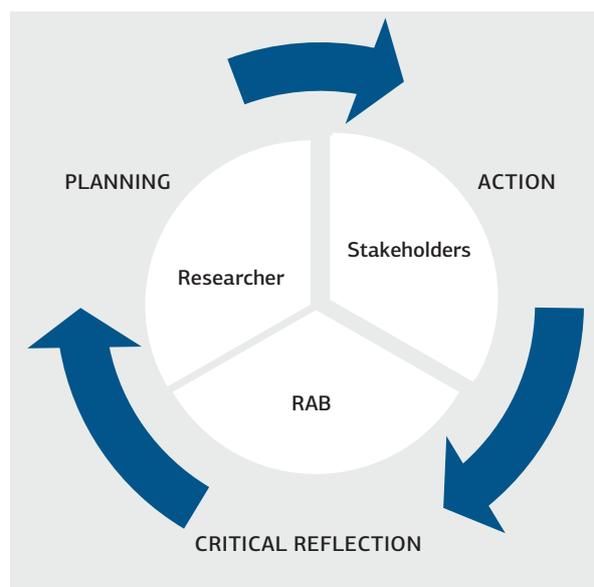


Figure 1. The action research cycle

## 2.2 Data collection and data analysis

Data collection and analysis involved a constant review of the progress undertaken by the partnership. Sources of data included minutes of the meetings, researcher’s project notes, reports from events and actions taken by the partnership (e.g., awareness-raising campaigns), and feedback from partners. Thematic analysis was undertaken to identify needs and challenges experienced during the partnership’s design and implementation.

The evaluation of the project’s first phase (i.e., design and implementation) started in April 2019, seven months after the partnership had its first formal meeting. It aimed to review the challenges experienced and gather partners’ views on both the partnership’s structure and the gains resulting from joining the partnership. The researcher conducted structured interviews with seven partner members who joined the partnership at the early stages. Data analysis from the interviews, alongside minutes and researcher’s notes, informed the development of a survey that was shared with all participants in complete anonymity. The survey aimed to identify the most prevalent factors that promoted partners’ involvement in the partnership, the benefits and gains that resulted from engaging in such multi-agency collaboration and finally, to gather partners’ views on the suitability of the partnership’s model and structure to ensure communication and cooperation. Forty surveys were returned. No details about their organisations were asked to ensure anonymity. Descriptive and thematic analyses were used to analyse survey responses. Results were shared with all partner

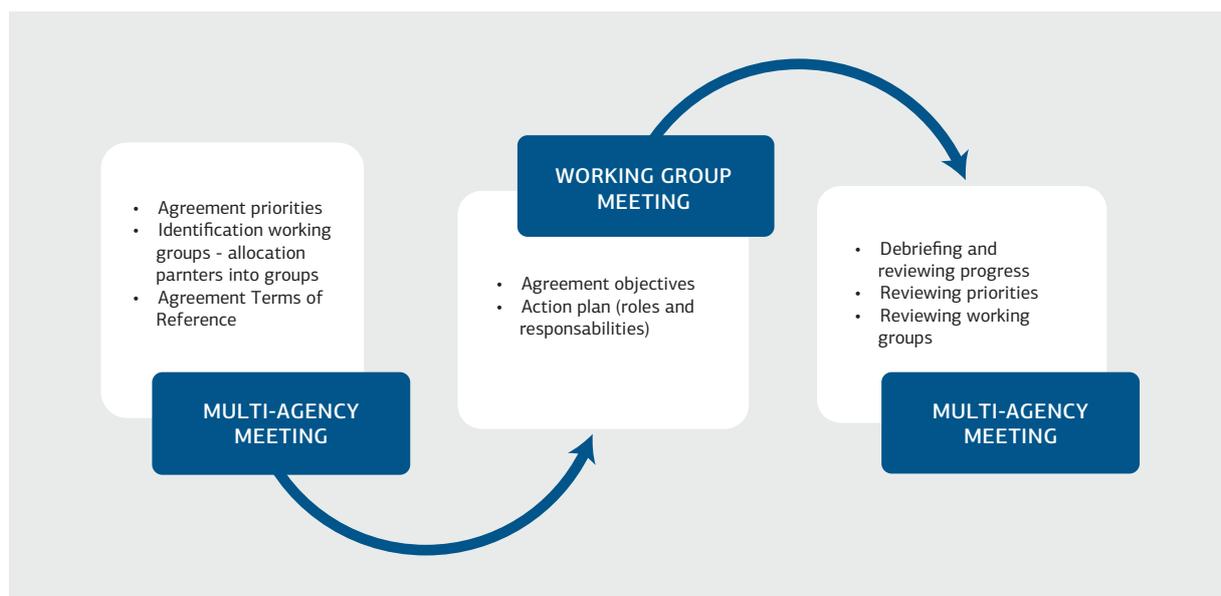
members to inform the development of the partnership and ensure its continuity.

## 3. Formation of the human trafficking partnership

A conversation with the local police around the implementation of the partnership started in early May 2018. No sharply defined objectives motivated the creation of the HT partnership, other than bringing together different agencies and organisations committed to sharing intelligence and working collaboratively to reduce the prevalence of HT crimes. Early discussions between the RAB and the researcher were primarily focused on the structure of the partnership and the potential partner agencies that could and should be involved in the collaboration. Considering previous academic literature on partnership work, the RAB and the researcher developed a partnership model that was later presented to the different partner agencies for feedback and approval.

### Suggested partnership model

The partnership model aimed to promote a “democratic culture” in order to ensure member agencies had equal power in the decision making. That is, partners would have equal power when agreeing on the priorities and objectives of the partnership as well as when agreeing to more administrative aspects such as the appointment of the chair or frequency of the meetings (Casey, 2008; Lester *et al.*, 2008; Potito *et al.*, 2009). Therefore, neither



**Figure 2.** Multi-agency partnership model

the partnership's aims nor the objectives were pre-agreed; rather, the very first action of partner agencies would be to jointly agree on the main priorities. Getting such agreement from the start aimed to create a sense of common purpose and, therefore, facilitate intelligence sharing and collaborative action (Casey, 2008; Potito *et al.*, 2009).

Once partners could agree to the priorities, the partnership would then be divided into smaller working groups to work towards the different priorities. There would be as many groups as identified priorities, and partners would be allocated to the different groups based on their own preferences and interests. That is, partners would have the autonomy and flexibility to choose in which working group they wanted to be involved. Moreover, partners within each working group would agree on the objectives and action plan of that group. It was expected that the number of working groups and their focus would organically develop as the partnership evolved and new priorities emerged. The active participation of partners in the decision-making along with their involvement in working groups based on their preferences and interests aimed to promote both partners' engagement and action taken (Halliday *et al.*, 2004; Kegler *et al.*, 2010; Thomas *et al.*, 2010).

Finally, to ensure and promote communication flow and feedback between working groups, joint multi-agency meetings (i.e., with all partner members) would take place on a regular basis. These meetings would offer the opportunity to review progress and priorities, and create networking opportunities. Moreover, members involved in more than one working group would also ensure regular communication between groups and the identification of opportunities for collaboration between working groups (Casey, 2008; Thomas *et al.*, 2010).

**Figure 2** presents a schematic representation of the partnership model.

### 3.1 Initial workshop

The RAB and the researcher sent invites to several (potential partner) agencies to attend a workshop that took place in late June 2018. Within the workshop, the suggested partnership model was presented for further feedback and suggestions. The model was well received. Members particularly welcomed the development of different working groups (targeting different priorities). First, they viewed them as an opportunity to be more action-orientated and facilitate the decision-making process (as fewer partners would be involved in deciding the objectives and the agreement of an action plan). They also viewed it as an opportunity to easily identify resources and expertise and to deliver outputs more quickly and productively. Second, according to members' views, the allocation of partners to

working groups based on their interests and preferences would promote commitment and ensure "buy-in" and engagement. Thus, it would promote the exchange of knowledge, intelligence and expertise. Nonetheless, concerns were raised regarding the limited resources and the competing priorities between the partner agencies involved. That is, whereas they welcomed the flexibility and autonomy to decide priorities and actions, they also recognised that without a formal governance structure overseeing and directing the partnership, problems could emerge between partner agencies due to differences in priorities and agendas.

After the workshop, two consecutive meetings took place with all those agencies who agreed to become active members in the partnership. They were representatives from law enforcement agencies, other statutory agencies (such as councils, fire and rescue service), charities and Non-Governmental Organisations (NGOs), businesses and faith groups. During the meetings, partners agreed on the priorities and the corresponding working groups. Two working groups were formed: the "training and awareness team" and the "tactical and enforcement team". Partners allocated themselves into groups based on their own preferences. A few of them (interested in both priorities) agreed to be active members of both groups. The Terms of References (ToR) were also drafted. It was decided that the groups would meet every month and on the same day, one working group after another, so partners could easily attend the meetings for both working groups (if necessary). They would meet on university premises, which was able to provide the adequate and necessary resources to accommodate all partners. The police force was chosen as the agency to chair both meetings. It was, however, agreed that the chair would change every six months and that joint multi-agency meetings (with all partners) would take place also every six months. Such meetings would serve to promote networking, review progress and the partnership's priorities, and choose another chair. All attendees gave their informed consent to participate in the AR project. Thus, it was specified in the ToR that the researcher would regularly collect data to monitor and evaluate the partnership's progress. The first formal meetings took place in September 2018.

## 4. Study findings

### 4.1 Partnership outcomes

From October 2018 to March 2019 (i.e., before the evaluation began), both groups met monthly. **Table 1** shows some of the key actions taken by the partnership for the period of this evaluation. For confidentiality purposes, no enforcement activity is highlighted in this paper.

**Table 1. Partnership actions/events from October 2018 to March 2019**

MONTH	ACTION/EVENT
October 2018	<ul style="list-style-type: none"> <li>Partnership launch event: event organised to present the partnership to other agencies and stakeholders</li> <li>Development and implementation of a referral form to facilitate intelligence sharing on HT live cases</li> </ul>
November 2018	<ul style="list-style-type: none"> <li>Start data gathering exercise to develop problem profile</li> </ul>
December 2018	<ul style="list-style-type: none"> <li>Formation of a task force (to work towards an identified risk area of exploitation)</li> </ul>
January 2019	<ul style="list-style-type: none"> <li>Mapping support services for victims of trafficking</li> </ul>
February 2019	<ul style="list-style-type: none"> <li>Launch partnership webpage</li> <li>Launch raising awareness campaign</li> </ul>
March 2019	<ul style="list-style-type: none"> <li>Set up a training-tasking group</li> </ul>

## 4.2 Partnership's development

This section presents the emerging themes the partnership encountered within the first months of starting the collaboration. These themes reflect the challenges faced by the partnership and the strategies and solutions undertaken to overcome such challenges.

### 4.2.1 Developing a partnership identity

One recurrent theme in the monthly meetings (n=10) for both working groups was developing the partnership's identity and becoming the point of reference for HT matters within the local area. To that end, one of the very first actions was to organise an event to launch the partnership. The purpose of the event was first, to introduce the partnership and its purpose to other agencies and stakeholders within the local area and second, to invite other agencies and organisations to join the multi-agency collaboration.

As predicted in the initial workshop, one of the challenges the partnership faced at the early stages was the diversity of the agencies involved in the collaboration and the different (and sometimes opposite) priorities that the individual organisations had. The most significant gap was observed between law enforcement agencies (focused mainly on the prosecution and the engagement of victims in the criminal justice process) and the voluntary sector, particularly charities and NGOs (focused primarily on the safeguarding of victims regardless of their involvement in the criminal justice system). Some of the agencies working closely with victims of trafficking had traditionally re-emphasised their independence from the police and other law enforcement agencies as a strategy to promote victims' trust and engagement. In cases of exploitation, many victims are reluctant to report their victimisation due to fears of deportation and mistrust of the police. Therefore, the voluntary sector feared that their collaboration with

the police could be misinterpreted by victims of trafficking, hence losing their trust and engagement. To overcome such a challenge, the partnership created a logo for use during the different events and actions taking place. Using a logo reduced the risk of sharing the wrong message (as no agency was explicitly mentioned) and, at the same time, recognised the collaboration of all agencies within the activity/event.

Another critical step for the development of identity was the creation of a partnership webpage. Having an online presence allowed the partnership to be easily contacted and to publicise the partnership's activities and actions. Moreover, the webpage was created to become an information hub, so both professionals and members of the public could access guidance, procedures, reports, training material and valuable information on how to report a potential case of exploitation or seek advice on a range of HT aspects. As per the same reasons as before, concerns were raised, and conversations took place, about what agency should manage the webpage and, especially, the partnership's email account, as that agency would easily be identified as the point of contact for the partnership. All partners saw the university as the best option. It had the necessary resources to create and maintain the webpage and, most importantly, was perceived as an independent organisation with no conflicting interests and priorities with the rest of the partner agencies.

### 4.2.2 Creating a human trafficking profile to inform the partnership's action plan

One challenge identified by both groups was the lack of an accurate local HT profile. This was seen as a barrier for the enforcement group to proactively investigate cases of exploitation, and for the training and awareness group as an obstacle to develop targeted awareness-raising campaigns in identified risk areas of exploitation. A request was sent

to partner agencies to gather the existing HT data within their organisation (including anecdotal data). The task was, however, a daunting one. Partner agencies collected data for different purposes and using different strategies and databases. Moreover, in some agencies, data was not gathered at all. Besides, barriers appeared when sharing intelligence with other agencies. Despite an academic expert in data protection from the university who advised on the development of information sharing agreements and the type of information shared, some partners were still reluctant to share information. Hence, it was not possible to develop an accurate problem profile because of the little data obtained.

Considering the afore-mentioned difficulties, the possibility of implementing a new and standardised data gathering process among the different partner agencies was discussed, so a more accurate local profile could be developed in the future. Barriers to introducing such changes were highlighted such as limited resources within the agencies/organisations and lack of strategic support to introduce such changes. Consequently, as an alternative to the previous attempts to develop a problem profile, and because of the university's involvement in the partnership, a research project was commissioned to map the risk areas of exploitation in the local area.

#### 4.2.3 Need for strategic support and dedicated sources of funding

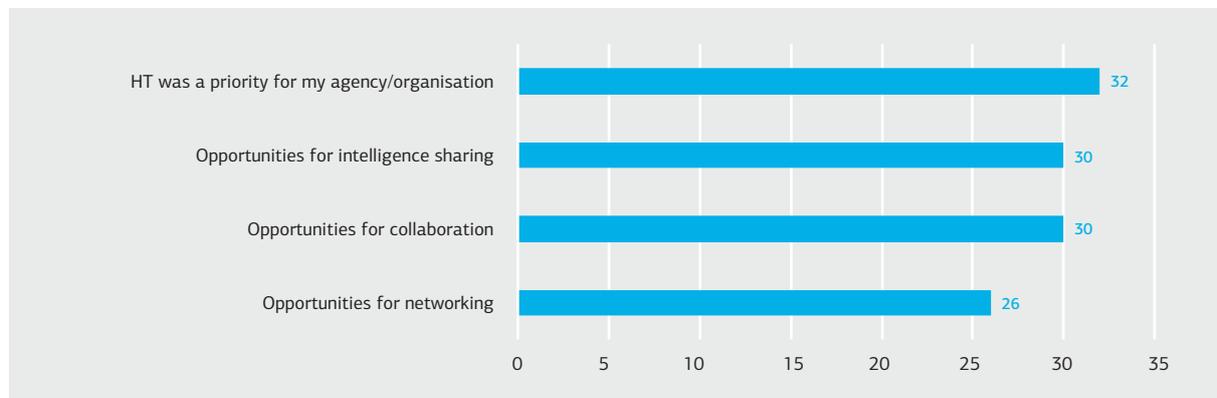
The lack of strategic support and funding was recognised as a barrier to introducing long-term changes, such as ensuring minimum levels of HT training among professionals. No explicit agreement existed among agencies regarding the allocation of resources and funding. Instead, during the first months of collaboration, agencies allocated different resources based on their own capabilities and capacities. This is well exemplified in the design and development of an awareness-raising campaign. Whereas some agencies

provided resources in terms of staff and time to plan, organise and arrange a campaign, others provided funding to develop and print material for the campaign (e.g., banners, leaflets). Also, some agencies provided very specific support. For instance, in the case of the university, students became involved in the campaign design.

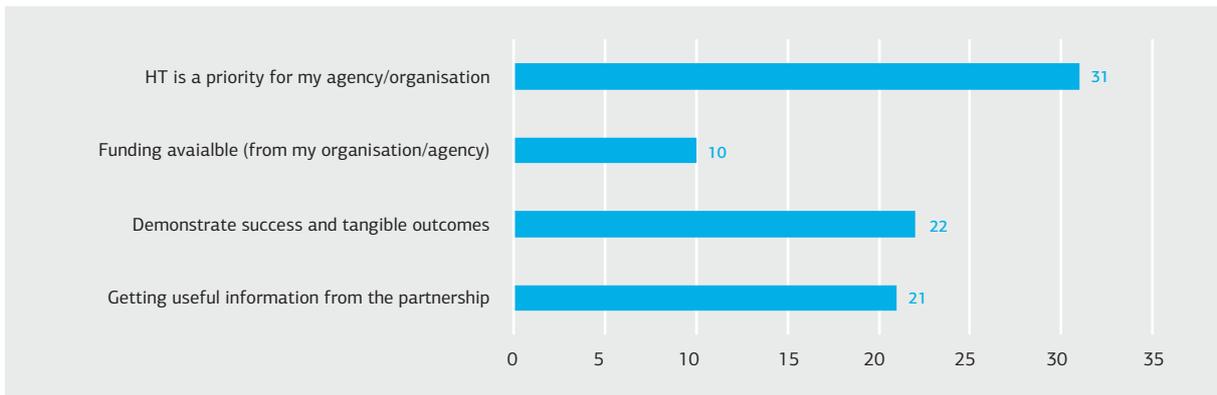
Nonetheless, partners viewed the lack of dedicated funding and strategic support as a barrier to implement long-term changes. For example, in the case of training, partners recognised there was a lack of mandatory and consistent HT training across many of the organisations within the area (despite some of them having a statutory role to respond to HT crimes or safeguard victims of trafficking). Training requests were made and, while partners dedicated their time to deliver training, it was soon recognised that the partnership did not have the capacity to meet the demand due to partners' time constraints. Therefore, in March 2019, a tasking group was created to ensure minimum levels of HT training across organisations. The tasking group aimed to review available training material and create training packages that each organisation could deliver internally. Yet, partners raised concerns about how, without the strategic support and dedicated funding, agencies would ensure that HT training is provided to all employees and across the different tiers.

#### 4.3 Partners' view on partnership development and implementation

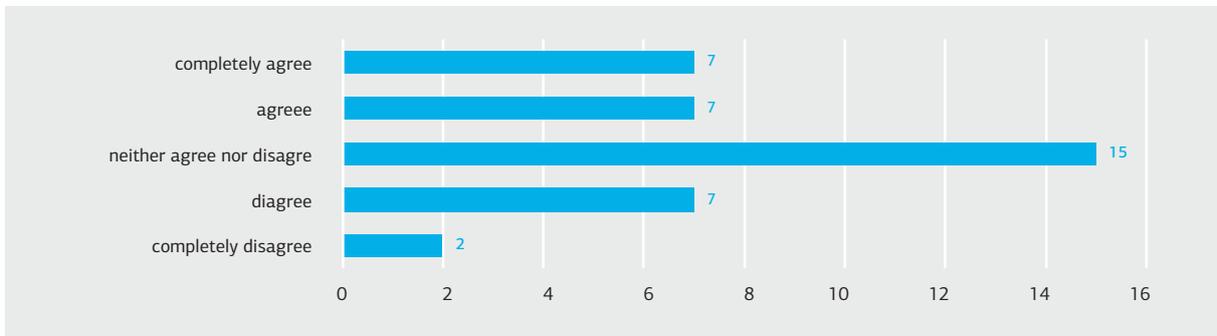
In April 2019, partners were invited to anonymously complete a survey in order to gather their views on the development and implementation of the partnership (first phase of the AR project). **Figures 3 and 4** present the most commonly cited reasons for joining the partnership and for continuing their involvement in the partnership. The most commonly cited reason in both cases was HT being a



**Figure 3.** Reasons for joining the HT partnership



**Figure 4. Reasons for continuing their involvement in the partnership**



**Figure 5. Partners' views on the need to improve communication**

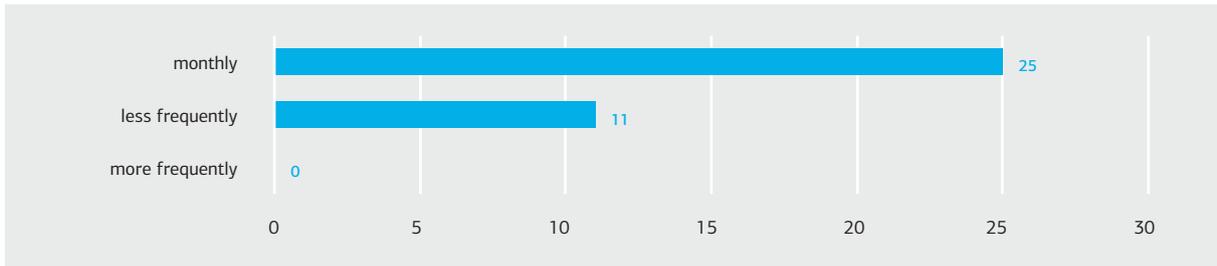
priority within their organisations/agencies. However, while reasons for joining the partnership were primarily centred on the opportunities that the partnership offered (e.g., opportunities for networking, collaboration, and intelligence sharing), reasons for continuing were mainly focused on the gains and benefits resulting from their involvement in the partnership. As **Figure 4** shows, to secure their involvement in the partnership, a significant number of agencies expressed the need to demonstrate success or tangible outcomes as well as to obtain, from the partnership, useful information either in the form of intelligence about risk areas (n=12) or in the form of training material, guidance and procedures (n=10). Moreover, funding available was also identified as a core element to secure their involvement.

Looking at the partners' gains and benefits that resulted from their engagement in the partnership, the following themes were identified:

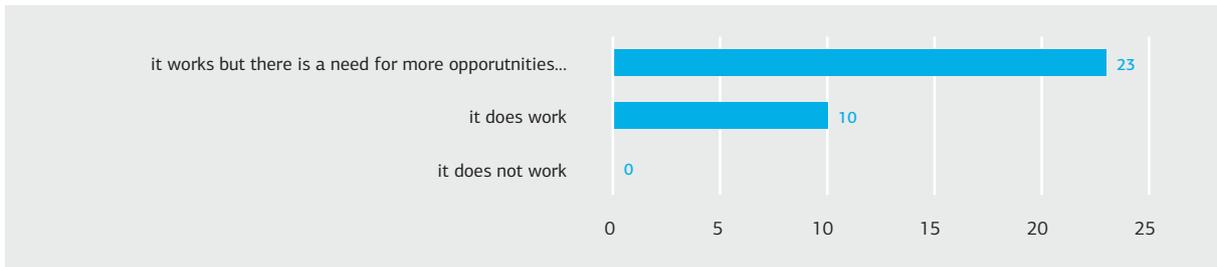
1. Increased networking and opportunities to collaborate (n=26)
2. Increased intelligence and knowledge sharing (n=12)

3. Opportunities to raise awareness within their organisations as well as externally to other organisations and members of the public (n=10)
4. A better understanding of partner agencies, including an understanding of their powers and capabilities, their remit of action, as well as identification of points of contact within the different agencies (n=10)

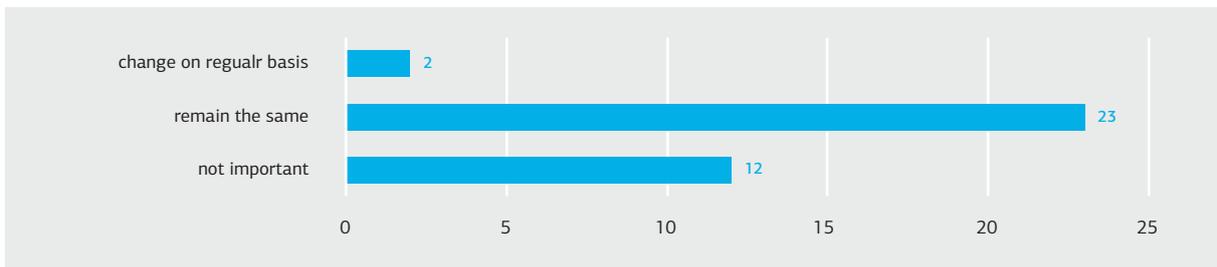
As shown in **Figure 5**, mixed opinions were identified on how partners viewed the communication between member agencies. Those who agreed on a need to improve communication (n=14) and those who neither agreed nor disagreed (n=15) were asked about potential strategies for improvement. Whereas many did not present any suggestion (n=13), others argued that better sharing agreements be put in place, more detailed action plans, and clarification of single points of contact for each of the agencies and organisations would improve communication flow. Some also acknowledged that more time was needed to build trust among partners and thus improve communication.



**Figure 6. Partners’ views on meetings’ frequency to promote communication flow and collaborative work**



**Figure 7. Partners’ views on working groups to promote collaborative work and meet objectives**



**Figure 8. Partners’ views on chair rotating in regular basis**

The survey also gathered the partners’ views on the suitability of the partnership’s model and structure to promote collaborative work and communication. As **Figure 6** reveals, most partners (69%) considered that conducting monthly meetings were the best strategy to ensure both aspects. Moreover, while a general agreement was found on the suitability of working in smaller groups to meet objectives and take actions, 30% considered a need to have joint meetings more frequently than every six months (see **Figure 7**). Finally, although it was initially agreed that the chair would regularly rotate, when conducting this evaluation, most partners (62%) considered that the chair should remain the same rather than rotate (see **Figure 8**).

## 5. Discussion

SDGs are complex and multi-faceted problems that require comprehensive and innovative solutions (Filho *et al.*, 2018). To that end, multi-agency collaborations are seen as effective strategies to ensure multi-disciplinary responses. Furthermore, while it is well recognised that research and generation of new knowledge is a cornerstone for sustainable development, the present study demonstrates that academic institutions can promote transformative solutions towards the SDGs by partnering with stakeholders and actively contributing to the development and implementation of transformative initiatives. The AR project started as a collaboration to both contribute to the academic literature and provide research-informed solutions. However, the active role of the university in the partnership proved to be pivotal in the implementation and development

of the HT partnership in aspects such as supporting the development of a partnership's identity and creating a problem profile.

Previous research has found that competing priorities and differences in working practices among partner agencies are common barriers to effective collaboration (Casey, 2008; McConkey, 2005). To overcome such obstacles, partners jointly agreed on the partnership's priorities and based on these priorities, working groups were formed. Moreover, to promote cohesion, partners chose in which working group they wanted to be allocated (Halliday *et al.*, 2004; Kegler *et al.*, 2010; Thomas *et al.*, 2010). According to partner members, this approach reinforced feelings of working towards a common aim, thus promoting communication and action focus. Yet, findings reveal that developing the partnership's identity was pivotal to ensure cohesion and collaboration. Previous research examining partnership work has found that, because of competing priorities and resources among partner organisations, partners need to "protect" their own interests (Kegler *et al.*, 2010). The present study also identified the need and desire of the voluntary sector to protect the trust and relationships built with victims of trafficking. Concerns were explicitly raised around the implications of the voluntary sector (i.e., NGOs and charities) being associated with law enforcement agencies such as the police or immigration agencies. It was argued that such a link could be misinterpreted by victims of trafficking as the voluntary sector working "for" the police rather than "with" the police. The partners resolved that challenge by creating a logo that would acknowledge the collaborative work (instead of citing each agency involved in the partnership) and identify the partnership in the different actions taken or events organised (e.g., awareness-raising campaign).

Although the logo was mainly created to develop a sense of identity, it also served to reflect the work and actions undertaken by the partnership and, therefore, to track outcomes and success achieved. Findings from the survey revealed that both funding and tangible outcomes are decisive factors to ensure partners' continuity in the HT partnership. That is, partners need to prove value for money so that the outcomes achieved are worth the time and funding partner agencies are dedicating to the multi-agency collaboration. According to previous research, the involvement of partners is very much determined by the partnership's capacity to meet the needs of the organisations effectively and efficiently (Sheppard, 2001). Therefore, creating a webpage was also another critical strategy to both clarify the purpose of the partnership and acknowledge and recognise the work done by the partnership. The involvement of the university was vital for materialising such a webpage. Because the academic institution had no conflicting interests and priorities with the rest of the partner agencies, it was possible

for the university to become the point of reference of the partnership.

One of the first actions of the partnership was developing a problem profile to inform the action plan. Gardner *et al.* (2020), when proposing a conceptual framework to build community resilience against contemporary forms of exploitation through partnership collaborations, cited the diagnosis stage as critical to building such resilience. Such diagnosis allows for the identification of risk areas and the recognition of barriers and opportunities to target exploitation within the community. Nonetheless, although the need for a diagnosis was identified in the early stages, different barriers prevented the development of an accurate problem profile. Although it is well known that obtaining an accurate picture of the HT reality is highly challenging (among other reasons because of the clandestine nature of the crime and the difficulties in obtaining data (Farrell and Reichert, 2017; Fedina, 2014; Gozdzik and Collett, 2005; Winterdyk and Reichel, 2010)), one of the first barriers encountered was the disjointed approach among agencies when collecting, gathering and analysing data. Agencies gathered data for different purposes and using various mechanisms. Likewise, some organisations did not gather any form of data (either because of limited resources or because HT was not a priority within the organisation). The second significant barrier was the reluctance of certain agencies to share intelligence with other organisations. Lack of trust is commonly cited as the main barrier for intelligence sharing (Casey, 2008; Drahota *et al.*, 2016; Kegler *et al.*, 2010; Mitchell, 2005). Yet, whereas some partner members noted more time was needed to build trust and confidence among partners (according to previous research findings, Vangen and Huxham, 2003), that would imply a considerable delay in obtaining an accurate problem profile and, consequently, developing an informed action plan. To overcome such a barrier, a research project was commissioned by the university to provide a HT picture of the local area so the research could promptly inform practice and the delivery plan.

Despite the lack of strategic support and dedicated funding sources, the partners met monthly and undertook several activities (e.g., raising awareness campaigns, training sessions, joint enforcement operations). Partnership work was funded primarily by individual budgets and staff time dedicated to the activities. Such identified flexibility in resource allocation is characteristic of the initial stages of partnership formation (Lowndes and Skelcher, 1998) and, indeed, usual in many HT partnerships established within UK (IASC and University of Nottingham, 2017, 2020). However, although the passion and commitment of the partners towards the common goal of eradicating exploitation was a critical facilitator and promotor of partnership work (Kegler *et al.* 2010; Lowndes and Skelcher, 1998), the differences in resources, capabilities and time dedicated

between the different partner organisations can become a barrier for effective collaboration (IASC and University of Nottingham, 2017). As Lester *et al.* (2008) identified, tensions may emerge among partners due to the differences in resources dedicated to the partnership. Besides, findings reveal that the lack of funding and support hindered (and even prevented) the development of resource-intensive actions and long-term changes. Therefore, although the partnership model implemented allowed for opportunities for collaboration and networking, as well as for communication and intelligence sharing (hence setting the basis for successful collaborations, Thomas *et al.*, 2010), partners recognised that further funding and strategic support was needed to ensure the continuity of the partnerships. That is, according to the partnership's cycle identified by Lowndes and Skelcher's (1998), findings reveal the need to move towards more formalised governance structures.

### 5.1 The role of the university in targeting HT crimes

Despite the recognised role of research as pivotal in informing the development of innovative solutions to complex problems, such as are the SDG targets (Filho *et al.*, 2018; ICSU, 2015; Miller *et al.*, 2014), just a few HT partnerships within the UK have researchers as partner members. The present study provides an example of the benefits of establishing collaborations between researchers and practitioners, especially within the context of HT partnerships. Such collaboration aimed at informing the partnership's implementation and progress and ensured that both the structure of the partnership and the actions taken were underpinned by empirical research and were under constant monitoring and evaluation. As Bumbarger and Campbell (2011) well recognised, the science and research conducted as part of a collaboration between researchers and stakeholders differ from more traditional forms of research where the focus is not about producing knowledge as a result of academic curiosity, but rather where the focus is to create knowledge that responds to current needs and can be applied by practitioners. Within the context of AR, because of the constant communication and close collaboration, needs and issues were easily and quickly identified, and consequently, research undertaken responding to those needs. In addition, contrary to more traditional forms of research where findings can take a long time to be accessible to professionals (*i.e.*, the process of gathering and analysing data, and submitting a paper for publication is a long one), professionals benefited from quicker and more accessible empirical knowledge that directly informed the partnership's actions and progress.

Another significant benefit of such research-practice collaboration was the acceptance of an empirical mindset. That is, while so far there is little evaluation and monitoring

of HT partnerships implemented in the UK (IASC and University of Nottingham, 2017, 2020), the current collaboration recognises the needs and benefits of constant evaluation and monitoring of the partnership's progress, which allowed impact-tracking and the identification of best practices. Such evaluation and monitoring have informed the partnership's progress and contributed to the broader academic literature. In particular, the findings of this evaluation have directly informed the partnership's changes towards a more formalised structure that, in addition, promotes further opportunities for networking and for producing tangible outcomes. Despite the limited generalisation of the findings because of how context-specific the AR project is, the results within this study can be transferred and can inform future and current HT multi-agency collaborations.

## 6. Conclusion

The purpose of the paper was to minimise the current research gap and provide a better understanding of the implementation and development of a multi-agency partnership to respond to HT crimes. The AR approach allowed us first to examine the suitability of the partnership model and structure to ensure communication flow and collaboration and second, to identify the emerging challenges faced by the partnership in the early stages. Regarding the former, ensuring a democratic culture where power in the decision-making process is equally distributed among partners and creating working groups to target different priorities proved effective to promote collaboration and communication. Considering the constraints encountered, three emerging themes were identified: (i) the need to develop a partnership identity that was able to accommodate the different agencies' priorities; (ii) the need to create a problem profile to inform the partnership's action plan; and (iii) the need to secure strategic support and funding to ensure the continuity of the partnership.

The study also demonstrates the critical role of collaboration between the researcher and the stakeholders in developing the partnership. First, it enabled structure, actions and progress of the partnership to be informed by research findings. Second, the constant communication allowed us to identify emerging needs and, accordingly, conduct research to target such needs and inform action taken. Third, it allowed practitioners to embrace an empirical mindset and, consequently, track and review actions and progress through constant monitoring and evaluation. Overall, the present paper helps to inform the development and design of HT partnerships and highlights the value of research-practice collaborations to respond to complex social problems such as trafficking crimes.



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# The Micro-Geopolitics of Violent Non-State Actors

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## ABSTRACT

In previous research, I proposed the ‘micro-geopolitics of organised crime’ (MGPOC) framework to analyse how and why criminal groups in Mexico are developing illicit economies associated with natural resources. The purpose of this paper is to initially assess the theoretical and practical validity of applying the MGPOC to other violent non-state actors (VNSAs). To this end, the article focuses on the Knights Templar cartel’s control of the iron ore industry in Michoacán, México, and the Islamic

State’s quest hegemony of the white talc mountains in Nangarhar Province, Afghanistan. It concludes with remarks on why the micro-geopolitics of VNSAs is one of the most tangible threats to the accomplishment of SDG16 on a local level.

## KEYWORDS

►► International security / VNSAs / Geopolitics; cross-case analysis / SDG16

## Introduction

Violent-non state actors (henceforth VNSAs), such as warlords-led militias, insurgencies, terrorist groups and criminal networks, have become one of the most pressing threats to democratic institutions, environmental sustainability and citizen security worldwide. In other words, VNSAs constitute a grave impediment to the accomplishment of Sustainable Development Goal 16 (SDG16).<sup>45</sup> Their nature, evolution and, ultimately, impact on nation-states appear in most of the international and national security assessments. The United Kingdom Integrated Review of Security, Defence, Development and Foreign Policy, for instance, acknowledges that terrorist groups and serious organised crime are able to undermine international security, pave the way for instability, and control access to shared resources (HMG, 2021, 28). The underlying challenges and intricacies around VNSAs have repeatedly mobilised the international community to deliberate over, and act upon, contentious topics. On February 24 2021, for example, following the initiative of Mexico, the United Nations Security Council discussed the lawfulness of the use of armed force by one State against non-state actors on another country’s territory without the latter’s consent (Ahmad-Haque, 2021).

In particular, organised crime groups (OCGs) pose a major challenge to national governments around the globe. Among

other illegal activities, these groups have economically diversified into several sources of revenue, namely, logging in Latin America, the exploitation and trade of wildlife in Africa, oil theft in Mexico and Nigeria, or the extraction of minerals and precious metals in Ukraine, Venezuela and South Africa (Carbajal-Glass, 2020b).

In light of this global trend, in previous research I proposed the ‘micro-geopolitics of organised crime’ (MGPOC) framework to analyse the way criminal groups in Mexico are developing illicit economies associated to natural resources and commodities (Carbajal-Glass, 2020a). The fundamental premise underlying the MGPOC framework is that multiple OCGs vie for intensely contested territories, transport routes, and access to national and international markets in order to secure strategic corridors of wealth, influence and power, thus generating large-scale violence primordially at a local scale.

The present paper represents a step forward in the research agenda. Its purpose is to initially assess the theoretical and practical validity of applying the MGPOC to other violent non-state actors (VNSAs). This being said, the final aim is to develop a more versatile analytical tool by incorporating terrorist groups and insurgencies to the framework’s scope. Because concrete cases are central to this comparative analysis, this article focuses on the Knights Templar cartel’s control of the iron-ore industry in Michoacán, Mexico, and the Islamic State-Khorasan Province’s quest for the hegemony of the white talc mountains in Nangarhar Province, Afghanistan.

45. The United Nations define SDG16 as: “[T]he promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels” (UN, 2021).

After briefly explaining the methods employed for this comparative analysis as well as the theoretical framework, I proceed to explain the main tenets of the MGPOC framework. In the third section, I analyse the above-mentioned cases through the prism of the MGPOC. The following section comprises this analysis' findings as well as the main theoretical and policy implications. The paper concludes with remarks on why the 'micro-geopolitics of VNSAs' is one of the most tangible threats to the accomplishment of the SDG 16 on a local scale, and the critical role higher education has in creating more peaceful, just and inclusive societies (Meschoulam *et al.*, 2016, 30).

## Methods and theoretical framework

This research is grounded on a comparative case study design. In this sense, it will be based on the 'intensive study of a single unit or a small number of units (the cases), for the purpose of understanding a larger class of similar units (a population of cases)' (Gerring, 2009, 95). In this sense, the present comparative analysis will cover two cases from different countries and with different characteristics, in order to emphasise similarities and patterns across contexts, hoping to produce more generalizable knowledge. The traits of each case will be studied according to the MGPOC's main tenets outlined in section two. The synthesis of these two cases will initially support or refute the validity to apply the MGPOC to other VNSAs.

The paper will rely on a combination of data collection methods and sources of information. First, open-source intelligence (OSINT) techniques, as suggested by Bazzell (2019, 501), will be used to structure a dataset on news about how the VNSAs studied are developing illicit economies in the iron ore and white talc industries in Mexico and Afghanistan, respectively. Government and non-government sources will be consulted to collect statistics on the productive process associated to the natural resource (i.e. iron ore and white talc), and homicidal violence (e.g. homicide rates). This cross-case analysis will also consider the following variables: geographic location; existence of other natural resources; socio-economic factors; presence of Armed Forces and/or rival VNSAs; and other variables that might emerge during the course of the research. It is worth mentioning that the research design will be an iterative and dynamic process (Eisenhardt, 1989), nourished by existing theory on trends in organised crime, criminal groups behaviour, and the creation of illicit economies in the extractive industries.

The MGPOC framework is informed by the seminal work of geopolitical thinkers such as Mackinder (1904), Spykman (1942) and Brzezinski (1986). In particular, this analytical tool delves into geopolitics as it 'reflects the combination of geographic and political factors determining the condition

of a state or region, and emphasizing the influence of geography on politics' (Brzezinski, 1986, xiv). However, the MGPOC acknowledges the need for geopolitics to have a subnational approach, as posited by Agnew and Corbridge (1995) and Ó Tuahail and Dalby (1998). Therefore, the role of different actors at the local or meso level of analysis is highlighted, namely, political and economic elites, armed forces or rival armed groups.<sup>46</sup>

It is important mentioning that geopolitics is hardly a new theoretical framework to explain criminal conduct. Gayraud (2007), for instance, analysed the global behaviour of the world's nine most powerful criminal organisations through the lens of geopolitics. In addition, Sansó-Rubert (2016) coined the term 'criminal geopolitics' to study transnational organised crime, in particular its geographic mobility across countries. Although both authors make a fundamental contribution to the study of OCGs at the macro level, they fall short to bring granular knowledge on how these groups operate at a subnational level and the nefarious impact they have in terms of violence, insecurity, extra-legal forms of governance and environmental degradation in entire communities.

Focusing on the behaviour of criminal groups at the local level presents two solid analytical advantages. First, the need to acknowledge a constantly-changing character of organised crime. As stated earlier, indeed criminal groups around the world have diversified their revenue streams and tend to operate more locally. It is worth mentioning, however, that much of this criminal diversification has responded to the fragmentation of the criminal landscape – either provoked by a government's countering actions or criminal infighting and defections – thus birthing an environment in which a multiplicity of smaller criminal groups compete intensely for different sources of revenue at hand (e.g. logging, wildlife trade, oil-tapping). On the one hand, this behaviour has made organised crime groups more toxic to society, local institutions and the environment. On the other hand, smaller criminal organisations have seen their international capabilities and logistical sophistication reduced in comparison to what drug-trafficking organisations – cartels – once had. Also, although in principle, economic diversification might empower criminal groups, it is fragmentation that has ultimately caused a considerable loss of their leverage vis à vis other actors – either legal or illegal (Carbajal-Glass, 2021). In this kind of contexts, organised crime groups may no longer be able to impose their conditions in the local territories they operate, even if these criminal groups are more than willing to employ violence as their preferred means – this is something the paper will expand on in the section *Theoretical and Policy Implications*.

46. Local level' refers to the municipality and district, the lowest politico-administrative unit in Mexico and Afghanistan, respectively. For the purposes of this research, meso-level of analysis is also an equivalent.

Second, and related to the above, a local lens incorporates the political dimension of criminal groups at the community level. In spite of frequently representing organised crime as a challenge to the State, the operation of criminal groups at the local level entails a mixture of complicities with the ‘upper world’, namely: legitimate entrepreneurs, civil servants, and politicians (van Duyne, 1997). In these complex social orders, organised crime – and potentially other VNSAs – also perform a political role, not only because they seize, concentrate, or exert power, but because they help other political and/or economic actors to seize, concentrate, and exert power (Carbajal-Glass, 2021).

The use of violence by OCGs, and large-scale violence as such, are issues the MGPOC framework is hugely concerned about. One of the main objectives of the MGPOC is to add a geographic explanation to the logics of armed violence. The identification of parallel processes and private drivers of violence from a geopolitical stance could help explain the overarching armed violence taking place in contexts like Mexico or Afghanistan. In the words of Kalyvas (2015, 1531):

What appears on the macro level to be [ethnic or sectarian] violence could be motivated, when one looks at fine-grained data, by feuding between competing individuals, neighbourhoods, or villages that adopt the macro-cleavage as convenient cover.

In this regard, research by Arjona (2014) and Balcells (2015) on civil wars has been helpful in theorising the dynamics of lethal violence at the community level, albeit after some necessary adaptations to non-civil war settings. Finally, the MGPOC includes literature on strategic theory as part of its theoretical backbone. This method of analysis in the domain

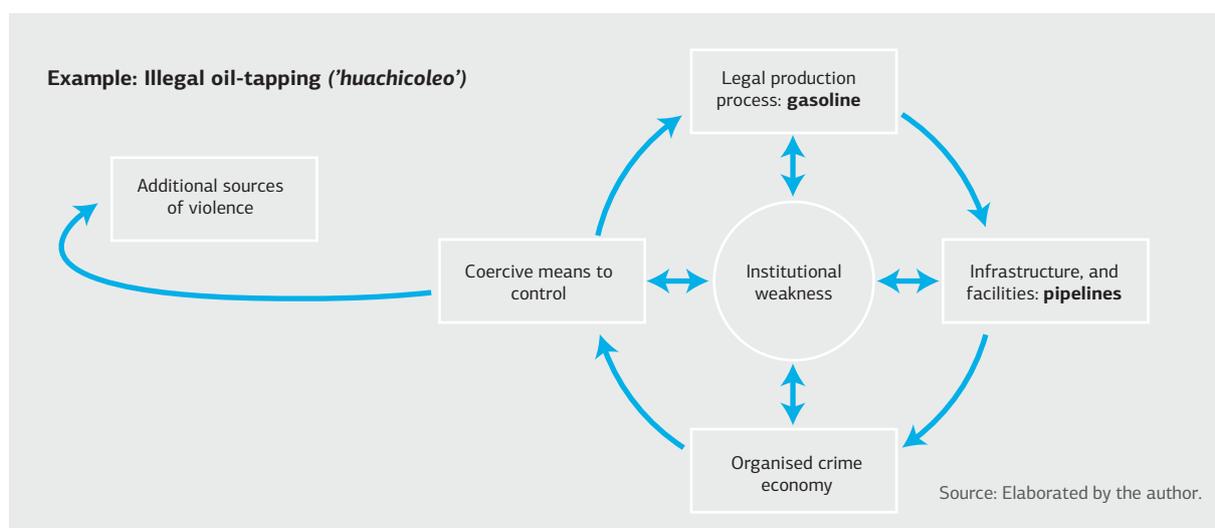
of international relations helps explain the objectives and decision-making processes beneath a non-state actor’s use of violence. Building on the research by Smith and Stone (2011), strategic theory’s key assumptions could help explain the purposeful use of violence by different VNSAs – such as terrorist groups, insurgencies or criminal organisations – namely: the relationship between their ends and means; the study of a non-state actor as the central unit of analysis; the understanding of a VNSA’s value system and preferences; the assumption of its rationality; and the clashes of interest in a specific political environment. With the theoretical background in mind, it is now time to briefly discuss the main tenets of the MGPOC that the present paper intends to apply to other VNSAs.

### Tenets of the MGPOC

As stated earlier, the MGPOC is aimed at understanding and, ultimately, anticipating OCGs’ incursion into a country’s economic processes, especially those related to natural resources. Thus, the framework focuses on the interconnection of five components (see: **Diagram 1**).<sup>47</sup> Firstly, it assumes the existence of a *profitable legal production process*<sup>48</sup> associated with a specific natural resource (for the purposes of this paper iron ore or white talc). This component implies that any profitable production process related to a natural resource (e.g. the extraction, processing, transportation, and export of iron ore or white

47. The components of the MGPOC are explained more in-depth in Carbajal-Glass (2020a).

48. For the purposes of this research, a production process comprises the following phases: extraction, transport, storage, export and processing of a natural resource.



**Diagram 1. Micro-Geopolitics of Organised Crime**

talc) is bound to local geographies and shaped by the laws of global supply and demand. As a consequence, the scarcity of a natural resource, and the increasing demand for it, invariably calls for the OCGs' attention.

Additionally, the MGPOC suggests the presence of *infrastructure related to a specific production process*. Albeit minimal and very simple, this infrastructure (e.g. landing strips, ports, warehouses, machinery) can be infiltrated by OCGs either by corruption, intimidation and/or a government's sheer inability to prevent and avert criminal groups from using it. The presence of infrastructure related to a particular production process reflects the influence of geography on politics insofar as infrastructure projects are likely a response to geographic determinants in the first place (e.g. the existence of iron ore mines or a prospective city-port). For instance, a government invests in the development of iron mines, naval ports, and industrial enclaves for the steel industry in order to benefit from the local geographic potential and foster economic development nationally (Carbajal-Glass, 2020a, 157).

This analytical framework also considers the *incorporation of a legal production process* into the dynamics of organised crime's economy. The infiltration of a legal activity is the strategy through which criminal organisations not only launder illicit revenues but also manage to collect profits from legitimate sectors. The additional revenue influx contributes to the criminal 'war effort' (e.g. accumulate manpower and weapons), whereby it can be employed either to neutralise law enforcement activities or to confront rival criminal groups.

Tied into this, the MGPOC assumes that the appropriation of a production process takes place through coercive means. Although not exclusively – since it is common to find cases where criminal groups have a robust popular support, as will be discussed below, the infiltration of a legal production process implicitly calls for the use of violence, adding alternative cycles of violence and counter-violence to an already unstable environment (e.g. the rise of vigilante or paramilitary groups). Thus, on the one hand, criminal diversification of revenue streams directly perpetuates armed violence (Shelley, 2014), especially at the local level. On the other hand, large-scale violence on a local scale shapes the security environment at a national scale altogether, causing a general perception of weak or failed states/governments.

Finally, at the core of the MGPOC is the prevalence of institutional failure or government corruption. In this regard, due to the partial, belated, or at times non-existent presence of the state authority in a particular geographical space, violent non-state actors such as criminal groups increasingly become politically influential, enabling the creation of complex social orders characterized by a symbiosis between legal and illegal actors often referred to as the political-

criminal nexus (Godson *et al.*, 1997). However, the MGPOC is highly concerned with the interaction between armed groups and legitimate economic actors as well.

## Cross-case analysis

Following, the paper now focuses on the Knights Templar cartel's control of the iron-ore industry in Michoacán, Mexico, and the Islamic State-Khorasan Province's quest for the hegemony of the white talc mountains in Nangarhar, Afghanistan.<sup>49</sup> After providing the reader with a succinct background, each case will be orderly analysed through the MGPOC's components.

### Knights Templar and the iron ore in Mexico

#### Background

The Knights Templar made their first public appearance in March 2011 when they hung *narco-mantas* (banners) throughout the state of Michoacán, with messages claiming they would 'continue to provide the service of protection' (Animal Politico, 2011), previously performed by its predecessor *La Familia Michoacana* (The Michoacán Family) cartel – before going through a process of internal fractures, defections and shifts of alignment (Carbajal-Glass, 2020a).

In the beginning, their social legitimacy started when they expelled the ruthless *Los Zetas cartel* – former ally to, and enforcer of, *La Familia Michoacana* – from Michoacán. In the political realm, the Knights Templar inherited a vast number of political contacts and corruption networks. During its peak years, between 2011 and 2013, the criminal group gained leverage on local politicians by meddling in electoral processes by intimidating or killing political candidates who might interfere with the criminal group's interests. The criminal organisation also infiltrated state institutions through extortion racketeering. In 2013, the Knights Templar extorted 110 out of 113 municipalities in Michoacán (Carbajal-Glass, 2020a).

Economically, in addition to drug-trafficking activities, the Knights Templar tapped into other economic activities. In particular, they generated revenues from the exploitation of natural resources, e.g. fertile lands, forests, mineral deposits, coastal hubs, etc. They also infiltrated the production of meat, crops (in particular avocados and lemons), and lumber (Enciso, 2017). Following, the paper delves into how and why the Knights Templar made its way into the iron ore industry

49. As for the case of the ISKP and the white talc-related illicit economy in Nangarhar, the present paper consulted the robust and fantastic research conducted by Global Witness in 2018.

in the city-port of Lázaro Cárdenas, Michoacán, México, between 2011 until late 2013, when it ceased to exist as a hierarchical, organised criminal group.

### Iron ore's productive process

In 2012, Michoacán was the largest producer of iron ore in Mexico, generating up to 4 million tons (Secretary of Economy, 2013). In the following year, 2013, the production of iron ore in the state of Michoacán went up even more to 7.6 million tons, worth over USD 184 million (SGM, 2015, 66). The Knights Templar attempted, with a high level of success, to take control of iron ore mining throughout Michoacán. In particular, the most relevant mines are located in the municipalities of Aguila, Aguililla, Arteaga, Churumuco, La Huacana, Lázaro Cárdenas and Tumbiscatío (Rosales, 2018).

By and large, the Knights Templar's activities in the iron ore mining consisted of two main strategies: extortion and the control of all aspects of the productive process (i.e. extraction, transport, storage and export). As for extortion, the Knights Templar generated revenues in all stages of the mineral's process, either by forcing miners to pay them a *cuota* (a share) of their salary to let them work 'peacefully' (Graham, 2014), or by collecting protection fees from the companies transporting iron ore from, for instance, Arteaga or Aguila to the port of Lázaro Cárdenas (Perez-Salazar, 2014).

As for the productive process as such, they would extract the iron ore themselves (Rodriguez and Zamora, 2014). According to a report from Mexico's Secretary of Economy, in 2013 only 225 out of 894 mining concessions were legal and the rest were illegal (Ureste, 2014). Other sources suggest that in the same year nearly 50% of the extracted iron ore in Michoacán mines was extracted illegally (Carbajal-Glass, 2020a).<sup>50</sup> Subsequently, the cartel would use trucks to transport the iron ore to Lázaro Cárdenas, and then the mineral would be shipped to China (Rodriguez and Zamora, 2014).

### Infrastructure related to the productive process

The port of Lázaro Cárdenas played a critical role in the iron ore illicit economy by the Knights Templar. The depth and extension of its bay, its accessibility by land and sea (with direct freeways and railways to the US market), and its location in the Pacific basin, make Lázaro Cárdenas a natural outlet for international trade in the Western Hemisphere (SBF, 2014). Between 2011 and 2015, it was among the four most important ports in Mexico. It is also part of a city in which the government-built iron and steel foundries 40 years ago (Carbajal-Glass, 2020a). Through the period 2011-2013, Lázaro Cárdenas was – and remains – a strategic centre

for Mexico's economic development insofar as it provides access to the Asian markets, chief among them China and its burgeoning steel industry (Carbajal-Glass, 2020a, 159).

It is worth mentioning that, in addition to the iron ore business, the Knights Templar cartel saw the control of the port of Lázaro Cárdenas as a strategic opportunity to increase their sources of income. Through 2011-2013, the criminal organisation would impose a 10% 'tax' on all operations in Lázaro Cárdenas (Chouza, 2013). To put this in perspective, between January and October 2013, more than 91,000 transactions of foreign trade took place in the port (Rocha, 2013). Considering that throughout this period commercial operations in Lázaro Cárdenas had revenues valued at USD 11,468 million, a systematic extortion operation in the port could bring an estimated USD 1,146 million into the Knights Templar's budget (Carbajal-Glass, 2020a).

### Incorporation of iron ore industry to organised crime economy

In 2013, at least 52% of Michoacán's iron ore production was illegally exported (Carbajal-Glass, 2020a). One informant/inside source, who asked not to be identified, said that the Knights Templar sold the iron ore at a profit of USD 15 per ton (Carbajal-Glass, 2020a). This figure alone would make an annual income of roughly USD 60 million for the cartel, and it represents significantly more than what Santiago Pérez and José de Córdoba estimated to be a USD 40 million business (Pérez and de Córdoba, 2014).

It is relevant to stress at this point the MGPOC's international scope. According to Comtois and Slack (2016, 8), iron ore is sold within 'a bilateral oligopolistic market with few producers selling ore to relatively few buyers'. This international dynamic makes countries like Mexico an important link in the mineral's supply chain and the steel industry worldwide.

In this sense, the link between the Knights Templar and Chinese export companies was key to understand the incorporation of iron ore mining into the former's increasingly diversified portfolio of activities. The Knights Templar exported roughly 4 million tons of iron ore to Chinese brokers between January and October 2013 (Carbajal-Glass, 2020a). In some cases, Chinese companies would not pay in cash for the illegally extracted iron ore, but would provide the Knights Templar with narcotics precursors (Pérez and de Córdoba, 2014).

This *quid pro quo* relationship became a win-win situation for the Knights Templar. On the one hand, the cartel had a massive share of the iron ore production process in the state of Michoacán. What's more, according to the national government, the sale of illegally extracted iron ore became the Knights Templar's most important source of revenue, even greater than the sale of methamphetamine (Castillo,

50. That would be an estimated 3.8 million tons.

2014). On the other hand, it strengthened its role in the methamphetamine markets both in Mexico and the United States (Flores, 2016).

### Coercive means and additional cycles of violence

As mentioned earlier, the Knights Templar infiltrated the iron ore industry by force of intimidation and coercion. There were cases where homicidal violence was part of this strategy. In April 2013, for instance, an executive of the steel and mining company ArcelorMittal was murdered in Lázaro Cárdenas (García-Tinoco, 2013). Initial investigations of Michoacán's Attorney indicated that "the victim did not suit the interests of the criminal group" (García-Tinoco, 2014). However, other sources indicated that the executive had previously denounced repeated extortion attempts from the Knights Templar (Lemus, 2015). In August of the same year, an engineer from ArcelorMittal was also murdered (Quadratin, 2013).

The Knights Templar became more predatory, something that exacerbated local populations in Michoacán. In Aquila, for instance, the criminal group coerced local villagers to giving them a share of the royalties paid from a mine operated by the Italian-Argentine company *Ternium* (Stevenson, 2013). In consequence, in July 2013 the *grupos de autodefensas* (vigilante groups) took up arms to expel the cartel from that municipality (Aristegui Noticias, 2013).

Moreover, as a result of the Knights Templar's iron ore's criminal infiltration, new forms of violence and counter-violence – unrelated to drug trafficking activities entirely – took place. For instance, according to Lemus (2015), *Ternium* allegedly organised, trained, equipped, and armed their own private security groups commonly known as *guardias blancas* (white guards), comprised of local citizens and people from other parts of Mexico, which protected their mines in different municipalities of Michoacán. These kinds of examples contributed to the escalation of large-scale violence, political instability and social fragmentation locally, at a time when other VNSAs – now in the form of vigilante groups – popped up across Michoacán in early 2013 (see Guerra-Manzo, 2015).

## The Islamic State-Khorasan Province and the white talc in Afghanistan

### Background

In January 2015, the extremist movement Daesh, based in Syria and Iraq, announced its expansion into Afghanistan or, as they would call it, the 'Khorasan Province' (Tarzi, 2018, 122).<sup>51</sup> In reality, however, the Islamic State-Khorasan

Province (henceforth ISKP) had been present since 2010 when its militants would operate under the name of Tehrik-e Taliban Pakistan (TTP) (Osman, 2016a). Although the ISKP declared allegiance to Daesh, it is still disputed to what extent there was an actual command-and-control relationship between them (see, for example, CSIS, 2018; Global Witness, 2018). In relation to other VNSAs – chief among them the Taliban – the ISKP gained limited control over Afghanistan (see Forrest, 2016). Out of the 34 provinces that conform the country, the north-eastern province of Nangarhar became ISKP's stronghold (Osman, 2016b) (see **Map 1**). By November 2015, the extremist movement remained dominant in Nangarhar's mineral-rich districts such as Kot, Deh Bala, Bati Kot, Shinwar, Chaparhar and Achin (Gambhir, 2015, 2).

Nangarhar Province's mineral wealth consists of huge deposits of chromite, marble, and white talc, to name a few. In particular, according to the Afghanistan Anti-Corruption Network (AACN), in 2016 ISKP and the Taliban earned a total of USD 46 million from illegally extracting – and implicitly exporting – white talc located in Nangarhar's districts such as Khogyani (Naibkhel, 2017). At a national scale, up to USD 300 million went to the coffers of VNSAs from extracting white talc in the same year (Dupee, 2017, 32). The present analysis focuses on ISKP's quest for the white talc deposits in Achin district through January 2015 – when the organisation made its first appearance – to July 2017, when the Afghan government and the US forces launched a sustained campaign against the insurgent group – including the use of the Massive Ordnance Air-Blast (MOAB) in April (Global Witness, 2018, 16).

### White talc and its productive process

Nangarhar Province possesses massive high-quality white talc deposits.<sup>52</sup> In particular, the mineral's deposits in Achin district were estimated in 1.25 million metric tons in 2011 (Cocker, 2011). The ISKP found in the Mamand valley a strategic turf where to settle and operate in May 2015, after the insurgent group took away the territory from the Taliban. In the words of Osman (2016a), '[T]he highly mountainous terrain, hard to conquer for outsiders but providing easy supply and exit routes to Tirah, was the perfect choice for the command centre of the new group, which had previously cached huge amounts of weapons transported from Tirah in Mamand's Takhta and Kharawy areas'.

Similar to other VNSAs prior their takeover – such as the Taliban – the ISKP's strategy presumably benefitted both from extracting and taxing the white talc's trade (Global Witness, 2018, 4). As for extracting the mineral themselves, according to the non-governmental organisation (NGO)

51. To the Islamic State, 'Khorasan' would refer to a historical region that encompasses, among other adjacent territories, Afghanistan and Pakistan.

52. It is often used to produce baby powder, ceramics, paint, paper, plastics, rubber, and insecticide products.



**Map 1. Afghanistan’s Administrative Divisions – Nangarhar Province**

Global Witness (2018, 21), as of 2017 ISKP controlled mines in Achin district, and profited from selling it to traders. In the same report, the NGO quoted the United States Institute of Peace (USIP) highlighting that in 2017 ISKP had allegedly taken control of the talc mines in the region (Global Witness (2018, 22), and would employ foreigners as labourers. Other sources would state that the insurgent group would pay a USD 400 dollars’ monthly salary to those working the mines.

As for taxing the mineral trade, Global Witness (2018, 27) reported traders would pay the ISKP between USD 57 to 67 dollars per truck through the time-lapse of this analysis (January 2015-September 2017). Other accounts reported that in Spring 2017, the traders reached a deal with ISKP over a major white talc stockpile stored in the Shadal area, near the mouth of the Mamand valley. Presumably, the deal consisted of allowing the mineral to be transported by roughly 300 trucks at a cost of USD 57 dollars a truck, generating an income of approximately USD 17,000 dollars. The white talc would be smuggled through the Torkham

border crossing<sup>53</sup> to the city of Peshawar, Pakistan (Global Witness, 2018). It is worth mentioning that the taxation of mining activities and the export of white talc by ISKP had been enabled – if not spurred on – by corruption of Afghan government officials (Katawazai, 2018). For instance, white talc traders had to pay bribes to different police check posts stationed through Khogyani district to the Torkham border (Global Witness, 2018, 40). Also, truck drivers would pay between USD 46 and USD 66 dollars for false documents at the customs office attesting that tax had been paid on the cargo, which allowed them to transit Torkham pass (Global Witness, *ibid*). In addition to bribery and illegal taxation, there was a more intricate network of roles and complicities that involved traders, brokers, provincial authorities, insurgents and local population alike (Bouissou 2016). On the one hand, traders in Pakistan would tell truck drivers

53. Torkham is one of the major trade routes along the Afghanistan-Pakistan border, also known as the Durand Line. It connects Nangarhar province with Khyber Pakhtunkhwa province in Pakistan.

that things with provincial authorities were already taken care of so that they did not have to pay bribes on the way to Torkham. On the other hand, local populations in insurgent-controlled areas in Nangarhar province would do the mining at a very low remuneration while the real profits of the extraction would go to the insurgent group after they sold the mineral to brokers based in the province.

### **Infrastructure related to the productive process**

Although the white talc mines in places like Mamand Valley, Achin district, had been exploited by other VNSAs in the past, the ISKP's incursion into the mineral's business was a step forward in terms of investment in machinery and know-how (Global Witness, 2018, 18). As for the latter, the ISKP had presumably brought to Achin and other nearby districts foreign engineers from Pakistan, Arabia, and possibly even Western countries to improve white talc extraction (Global Witness, 2018, 19).

As for the former, heavy tracked machinery was used at some mines in the region. The extraction was mainly carried out with large pneumatic jackhammers mounted on excavators, and wheeled excavators used to load the trucks (Global Witness, 2018). This equipment would be brought over from other mines when demand was high. While machinery had been used before the ISKP took over the mines, this insurgent group increased the number of excavators and loaders, and intensified exploitation (Global Witness, 2018, 19). In mid-2016 the rent for an excavator would be USD 5,000 a month, driver included (Global Witness, 2018, 19). It is worth noting that the reports of machinery being used at the mines by the ISKP may be linked to the confiscation of vehicles that were already at the site. According to research by Global Witness, the ISKP took the private excavators by force of arms. A researcher told NGO that the Bilal Musazai company, which previously had a contract to extract white talc from mines in the Mamand valley, lost around 100 vehicles when the ISKP took over (The Global Witness, 2018, 19).

### **Incorporation of white talc into the ISKP's economy**

Afghanistan had witnessed a multiplicity of VNSAs warring over natural resources, even before the ISKP would vie for the exploitation of white talc through January 2015 – September 2017 in Achin district, Nangarhar province (see, for instance, United States House of Representatives, 2010; Sexton, 2012; Dupee, 2012). Indeed, there has been a lot at stake – the hegemonic actor would have a very profitable source of revenue with which to fund its war effort. In 2010, the United States estimated that mineral deposits in Afghanistan could be worth USD 1 trillion (Risen, 2010). Among others, the minerals include aluminium, copper,

white talc, chromite, gold, iron ore, lithium, platinum, silver, tantalum and uranium (Thachuk, 2020, 214). Specifically, one of the ISKP's broader strategic interest relied on the exploitation of mineral riches such as white talc in different districts of Nangarhar (Nasiri, 2017). In fact, one of the Afghan government's main concern in 2015 was that: 'The mines of Afghanistan can be a good economic source for [the Islamic State] (*sic*)' (Tolo News, 2015). In April 2017, the governor of Nangarhar warned that 'Taliban and Daesh militants are mining illegally and destroying forests in those areas. This is an income source for their war which has to be rooted out.' (Global Witness, 2018, 21).

As is common for other cases, the illicit economy of white talc in Nangarhar Province has an international dimension as well. As stated above, the majority of the illegally-extracted white talc is exported to Pakistan. Reportedly, in early 2017 roughly 500 illegally mined loads of talc per day, worth USD 46 million per month, were smuggled to Pakistan by 'a strong network of militants, local mafia, and some civil and military officials in [Afghanistan]' (Zahid, 2017). The majority of Pakistani white talc exports, that actually originate in Afghanistan, goes to the United States and European countries (Byrd and Noorani, 2017, 8). For instance, roughly 35 per cent of US white talc imports are from Pakistan (Ekklesia, 2018). The French company Imerys, that mines and sells minerals such as white talc worldwide, purchased the mineral from a Pakistani company for further export to European and US markets. In a similar fashion, the Italian company IMI-FABI connected with Pakistani brokers in order to buy the unprocessed white talc (Global Witness, 2018, 43). Most likely, consumers in these countries are involuntarily funding insurgent groups like the ISKP and perpetuating violent cycles of violence in Afghanistan (Katawazai, 2018).

### **Coercive means and additional cycles of violence**

The diversification efforts of VNSAs in Afghanistan have further divisiveness in a country that has been at war for generations (Thachuk, 2020, 214). The huge profits from mineral extraction have exacerbated ethnic and identity politics oftentimes openly promoted by local strongmen, thus fuelling pernicious sectarian movements and social polarisation (Omarkhail, 2018). The illegal exploitation of white talc – like other minerals (see Lakhani and Corboz, 2017) – added new layers of violence to an already ethnically and politically unstable environment in Nangarhar Province through 2015 – 2017.

At first glance, it may appear that the ISKP and the Taliban movement violently competed to be the dominant insurgency in the region (Dawn, 2017) and to see their political project become a reality. At a closer look, however, armed violence between these two VNSAs in Nangarhar province was one

over resources, not ideology or a political project: it was a business war (Garret-Johnson, 2016). In reality, the ISKP and the Taliban were fighting each other for the hegemony of the white talc mountains (Masha, 2017). As such, the existence of lucrative minerals like white talc bred new manifestations of violence – completely unrelated to the ISKP or the Taliban insurgency per se.

It is clear how illicit white talc mining by ISKP put Afghanistan, and in particular Nangarhar, in what Collier et al (2003) called a ‘conflict trap’ through 2015 and 2017. For white talc not only partly funded ISKP’s war effort, but fuelled both local conflicts and the wider insurgency in the country (Lakhani and Corboz, 2017, 15) as multiple VNSAs tried to control of mineral-rich districts in Afghanistan. In addition, armed violence over white talc has caused severe humanitarian costs in Nangarhar. According to a World Bank’s report, in 2016 this province appeared first in the top 10 provinces by displaced population, totalling roughly 449,000 people displaced (World Bank, 2017, 25). Only in 2017, more than 60,000 people were displaced due to the fight between ISKP and the Taliban for the control of other mineral-rich districts in Nangarhar (Global Witness, 2018).

It is worth mentioning, in addition, how the contested nature of Nangarhar districts incentivised ISKP to exert coercive means over the population in order to ensure the appropriation of the white talc’s production process. From mid-May until early July 2015, villagers from Mamand valley saw ISKP’s rule from a positive angle. Residents initially thought that ISKP was a pro-government force (Osman, 2016a). However, as of July 2015 the insurgent’s group initial legitimacy rapidly began to erode. On the one hand, ISKP announced a ban on the customary cultivation of poppy and threatened the social order and conventions in the province by carrying out executions of tribal elders. On the other hand, they grew more predatory insofar as they would engage in extorting money, ‘kidnapping people for ransom’ (Garret-Johnson, 2016). Also, the ISKP made killings part of their social control tactics – beheadings and public executions became ISKP’s trademark, with victims including elderly civilian men (Global Witness, 2018, 33). As a consequence, additional cycles of violence and counter-violence took place. In 2016, a series of popular uprisings against ISKP popped up with the support of the Taliban (Osman, 2016b).

### Theoretical and policy implications

This paper has studied two cases in different settings, though with similar mechanisms, relating to VNSA behaviour, namely the Knights Templar criminal group in Michoacán, Mexico, and the insurgency under the Taliban and ISKP in the Islamic State-Khorasan Province, Afghanistan, through the lens of the MGPOC framework (i.e. a profitable legal production process, the existence of infrastructure, the

incorporation of a production process, the use of coercive means, and institutional/government failure). In doing so, this initial assessment seeks to make the MGPOC a more versatile analytical tool in order to apply it to examine the behaviour of other VNSAs, such as insurgencies or terrorist groups. In this sense, the analysis above has yielded similar traits and patterns between the two case studies, regardless of Afghanistan’s and Mexico’s particular backgrounds, as well as the nature of the VNSAs themselves (i.e. insurgency or criminal groups, respectively). This being said, the paper sketches the following theoretical and policy implications in order to produce more generalizable knowledge for future research on similar contexts and methods.

Firstly, both case studies attest that the infiltration of the iron ore and the white talc productive processes by criminal groups, the Knights Templar and the ISKP, respectively, had an inherent international dimension. Although the MGPOC framework stresses the relevance of the local level, it is indeed necessary to include the national and international levels of analysis when studying the behaviour of VNSAs and the creation of illicit economies. Both cases show that small, hard-to-access territories are potentially ‘global spaces’, where local political and economic processes are shaped by global forces, dynamics and actors. The comparison of the two cases depicted how the Knights Templar and the ISKP operate at a subnational level, as well as the nefarious impact they have on entire communities, particularly in terms of violence, insecurity, extra-legal forms of governance and environmental as well as social degradation.

In addition, both cases suggest that the creation and continuance of illicit economies – either by criminal groups or insurgencies – will particularly thrive in the margins of the State: maritime-wise in the case of the Knights Templar in Lázaro Cárdenas and their deal with Chinese brokers; and terrestrial-wise in the case of the ISKP in Nangarhar province and their deals close to the border with Pakistan. Tied into this, both case studies demonstrate the paradoxes underlying development policies. It is not enough for a government to focus too much in the construction of, for instance, railroads, ports, airstrips, and highways as a means to ‘win the hearts and minds’ of the people, as long as there are violent non-state actors able to set out parallel forms of governance. Moreover, in these contexts policies involving economic development are likely to benefit a VNSA either to further their economic activities, political influence, and social base.

On the other hand, the present comparative analysis shows that corruption, absence or weakness of the State’s authority may cause different actors – legal and illegal – to adapt to a particular environment according to the ‘rules of the game’, as well as their particular needs, interests and objectives. State corruption, for instance, opens up opportunities for corporate misconduct from companies in the white talc or

iron ore industries, especially if the ISKP and the Knights Templar, respectively, can sell the mineral resources at a price significantly lower than that of the legitimate market through tax evasion and no compliance of any working or environmental regulations. In 2017, for instance, illegally extracted white talc was sold at USD 14 per ton, whereas in the open market talc would cost USD 60 per ton in Afghanistan and USD 150–200 in Pakistan (Global Witness, 2018, 41). Similarly, in 2013 the Knights Templar would sell iron ore at a profit of USD 15 per ton whereas in the legitimate market iron ore ton was sold at a price of USD 137 (Carbajal-Glass, 2020a, 162).

Next, it is worth asking if the conduct and, in some cases, wrongdoing of private companies is entirely detached from the geopolitical interests of their home countries. It is not uncommon for multinational companies to receive support from their national governments in spite of accusations around their behaviour and integrity tainting their corporate reputation. This cross-case analysis indicates that the infiltration by VNSAs in legal production processes of natural resources inevitably end up generating alternative cycles of violence and counter-violence in a community, beyond those related to drug-trafficking or any other illegal activity. Moreover, different actors, for example, companies in the white talc or the iron ore industries that accept an illicit way of doing business, rival VNSAs, government authorities, paramilitary groups, and even consumers by purchasing products from blood white talc or iron ore, contribute to the escalation of large-scale violence, political instability and social fragmentation locally.

The case studies presented portray how illicit economies are controlled by a criminal or insurgent group, and administered by conflict entrepreneurs in political and business spheres in the legitimate world. As for the social fragmentation, cases like the Knights Templar in Mexico and the ISKP in Afghanistan are sheer representations of the intricacies of the political complex at the local level, and the wider danger of escalation of conflict over natural resources. In other words, repeated outbreaks of large-scale violence in Nangarhar and Lázaro Cárdenas might potentially be also attributable to historical local disputes over land, economic hegemony, and political influence from a multiplicity of legal and illegal actors. This is what the present research calls the ‘political trajectory of homicidal violence’ (Carbajal-Glass, 2021). In this sense, this research is concerned about the (rather unstable) alliance system among multiple actors in a particular local setting. Contrary to what is commonly seen as an overwhelming force, VNSAs might be in the need to integrate themselves into the correlation of forces (political or economic), and to forge alliances with multiple actors operating at the local level. In terms of local politics, for instance, it is important to consider the rather porous interaction between VNSAs and political elites. In terms of business, it is necessary to

pay attention, for example, to the relationships between VNSAs and foreign companies.

Contrary to previous research (see, for instance ICG, 2019), this initial examination might be an indicator that large-scale violence does not follow the pattern of an epidemic, i.e. contagion based on proximity. Instead, lethal violence might be confined to specific geographical areas. This being said, this analysis suggests that the exertion of violence by VNSAs might be a purposeful means to achieve their strategic goals depending on targeted areas of control. What is more, this analysis showed that contested territories, whether due to the existence of multiple VNSAs in the same area, or the implosion and splintering of a particular VNSA, can increase the probability and intensity of large-scale violence. Finally, the MGPOC framework could also be used as a tool aimed at generating strategic intelligence. In this sense, deposits of lithium in Mexico or Afghanistan, for instance, could be a potential business in which VNSAs might be interested in infiltrating, especially as it becomes increasingly relevant in the energy sector worldwide. Ultimately, the purpose of this analytical framework is to anticipate VNSAs attempts for economic diversification and the creation of illicit economies, including their nefarious social, environmental, and political consequences.

## Conclusion

VNSAs are constantly evolving and adapting worldwide. It is thus necessary to have the analytical tools aimed at studying and, ultimately, anticipating their behaviour. One way to adapt our understanding of VNSAs is to regard them as geopolitical actors. Based on previous research, this paper compared and contrasted the economic diversification attempts of the Knights Templar, in Mexico, and the Islamic State-Khorasan Province, in Afghanistan, through the lens of the components of the MGPOC framework, namely: the existence of a profitable legal production process associated to a natural resource; the existence of infrastructure and facilities related to a specific production process; the incorporation of the production process into the VNSAs economy; the appropriation of a production process through coercive means; and institutional failure.

In particular, this article focused on the Knights Templar cartel’s control of the iron-ore industry in Lázaro Cárdenas, Michoacán, through the period 2011 – late 2013, and the ISKP’s quest for the hegemony of the white talc mountains in Achin District, Nangarhar Province, through January 2015 to July 2017. In spite of having different types of governments, social landscapes and backgrounds, the countries studied display striking similarities on how and why the Knights Templar and the ISKP tapped into the iron ore and the white talc industry respectively, regardless of their own nature and label. Overall, the control of these

subnational spaces represents huge economic revenues to the VNSAs in order to further their strategic interests.

The extent to which VNSAs damage the social, political and environmental landscape on a local scale compels us to make some remarks on why the creation of illicit economies by these actors is one of the most tangible threats to the accomplishment of the SDG16. The involvement of VNSAs in the exploitation of natural resources can become drivers in themselves for different expressions of violence, chief among them the surge in intentional homicides linked to 'violent conflicts over land resources, intergang violence over turf or control, and predatory violence and killing by armed groups', as the UN would put it. Violence against children, human trafficking and sexual violence come hand in hand with the creation of illicit economies by VNSAs, thus posing a risk to attaining Target 2 of SDG16.

Additionally, the case of the Knights Templar and the ISKP highlight that wealth in natural resources paradoxically makes local people the most deprived. On the one hand, people in these communities rely on dangerous work for their livelihoods, yet they do not acquire the full benefits, not to mention rights, of the industry. On the other hand, although local communities quickly developed a relationship of economic dependency either with the Knights Templar or the ISKP, sooner or later they become subject of predatory and repressive behaviour from these groups. The above-mentioned case studies show that extortion, torture and killings are means to achieve social control and discipline.

Related to this is the damage to equality, the rule of law, equal access to justice and good governance (Target 16.3). This cross-case analysis illustrates how a multiplicity of non-state armed groups interact in the margins of the Mexican and the Afghan States. To the local populations in Lázaro Cárdenas and Nangarhar, the extralegal forms of governance established by the Knights Templar and the ISKP became a way of life, and, sometimes these populations adopted them as legitimate, albeit temporarily insofar as these kinds of groups show their true colors. This is even more worrying since the 'Weberian nation-state' – traditionally referred to as government, population and territory – is currently going through a major reconfiguration as alternative sources of credibility, legitimacy, and authority are now more visible at a subnational level.

Governments, civil society and communities must work together, not only to ameliorate this trend, but to implement far-reaching solutions at the local level. This is where higher education steps in as a critical factor to foster more peaceful, just and democratic societies. Universities can have a leading role in resolving large-scale violence and conflict through education, training, and research. With regards to the former, as part of a larger and multidimensional effort, such as public-private

partnerships (PPPs), universities should implement local educational programs aimed at promoting peace-building, transitional justice, and reconciliation processes within communities affected by violence. What is more, any public policy should bear in mind the importance of experiencing education as a fundamental pillar, as an invaluable means, for peace (Meschoulam *et al.*, 2016, 30). On the other hand, scholarly research on the changing character of conflict and political violence, as well as on the main urban security and peacebuilding conundrums in the 21<sup>st</sup> century will contribute to meet the SDG16 at a global scale. Hopefully, this research will help overcome the security crisis many countries with similar characteristics are facing nowadays in order to reach more just, peaceful and inclusive societies towards 2030.

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# Building Back Better in the Post-COVID-19 World: The Role of Peacebuilding Researchers and Youth Peacebuilders in Nigeria and South Africa

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## ABSTRACT

The COVID-19 pandemic has exacerbated existing conflict dynamics in the Global South. Widening inequality between the rich and the poor, extended damaging lockdowns, mismanagement of COVID-19 palliatives and overburdening of health-care systems have contributed to heightening crime and violent conflict in the Global South. Government and key policymakers' responses have been perceived as corrupt and high handed, with human rights violations resulting in new conflicts, including the #EndSARS protest against police brutality in Nigeria. Nigeria and South Africa are some of countries hardest hit by COVID-19 fatalities and infection rates on the African continent. This paper identifies the key roles that academic researchers and youth peacebuilders in Nigeria and South Africa have to play in managing the conflicts and ensuring sustainable recovery in both countries. Academic researchers produce sound academic

ideas and concepts that shape the peacebuilding practice in the field, while youth peacebuilders work with their peers in local communities to counter violent extremism. For this paper, a qualitative research methodology was adopted to conduct nine interviews with youth peacebuilders and academic researchers based in Nigeria and South Africa. This study determines how local populations in the Global South can create locally owned solutions to manage conflicts. In addition, this study demonstrates how higher education and youth peacebuilders can build synergy between theory and practice to achieve the Sustainable Development Goal 16 of peace, justice and strong institutions.

## KEY WORDS

» COVID-19 / Universities / Youth / Nigeria / South Africa / Peacebuilding

## Introduction

The COVID-19 pandemic is arguably the most disruptive event of the twenty-first century. Millions of fatalities and millions of cases later, the pandemic has severely affected every country in the world. It has necessitated sweeping local lockdowns and border closures and caused economic downturns (Polo, 2020). The effects of the virus have included the exacerbation of tensions on the ground and widening inequality between the rich and the poor, with an increase in poverty (Ikotun *et al.*, 2020). At first, COVID-19 cut across all borders and ravaged the entire world, including Western Europe and North America as well as the Global South of Africa, Asia, the Middle East and Latin America (Ikotun *et al.*, 2020). However, with time, it became obvious that Africa in particular would be badly hit by the virus due to factors relating to insufficient health-care systems, emerging economies and inadequate social infrastructure as well as the rapid spread of misinformation

about the pandemic (Chersich *et al.*, 2020). Despotism rulers have taken advantage of the urgency of lockdowns to adopt authoritarian approaches in implementing lockdowns that violate people's human rights (International Crisis Group, 2020). This paper focuses on how peacebuilding, higher education and youth peacebuilders have managed pandemic-related conflicts and could drive a sustainable post-COVID-19 recovery process in two of the most-impacted countries in Africa: Nigeria and South Africa. It begins by discussing the study areas of Nigeria and South Africa and moves on to identify the methodology for the study. The paper then discusses the COVID-19 responses in Nigeria and South Africa, before examining the role of academic researchers and youth peacebuilders in promoting sustainable post-COVID-19 recovery in both countries. It then determines how synergies can be built by the academic researchers and the youth peacebuilders before making recommendations.

## Study areas

The study areas for this paper are Nigeria and South Africa. Situated in West Africa, Nigeria is Africa's most populated country with over 200 million citizens and its largest economy. The capital is Abuja and the country is geographically divided into 36 states that cut across six geo-political zones. It faces serious security challenges, including the 12-year Boko Haram insurgency in the northeast, farmer-herder clashes, banditry and an uptick in kidnapping for ransom across the country. The sample for this study is drawn from academic researchers and youth peacebuilders across the country. Nigeria recorded the first case of COVID-19 infection in sub-Saharan Africa on 27 February 2020 (Africa News, 2020).

South Africa is situated in southern Africa and is the third largest economy in Africa. With over 59 million citizens, the administrative capital is based in Pretoria, with the judicial capital in Bloemfontein and the legislative one in Cape Town. South Africa faces unique security challenges, including periodic xenophobic attacks and high levels of inter-personal violence and murders.

## Methodology

This study used a qualitative research methodology to determine how academic researchers and youth peacebuilders could drive post-COVID-19 recovery across Nigeria and South Africa. A total of nine interviews were conducted, with five academic researchers and four youth peacebuilders. Purposive sampling technology was used to identify respondents to be sampled across leading research institutions, such as the University of Ibadan and Niger Delta University in Nigeria and the University of Zululand, Nelson Mandela University, the University of Pretoria and the Institute for Security Studies (ISS) in South Africa. Youth-led organizations represented in the study sample are the Galaxy for Peace and Integrity Initiative and the Building Blocks for Peace Foundation in Nigeria and the Spear of Youth and Zwane Youth League in South Africa. The data derived was thematically analysed and combined with secondary research to produce the findings. To ensure the anonymity of the respondents, their names will not be used but details of their affiliations and expertise have been provided.



Source: Nations Online Project

**Figure 1.** Administrative map of Nigeria

## Results

### COVID-19 status and response

#### Nigeria

As at 30 April 2021, according to the John Hopkins Coronavirus Centre, Nigeria had recorded 165,055 cases with 2,063 fatalities and 155,041 recoveries. It has the seventh highest number of COVID-19 infections in Africa. The first case of COVID-19 was recorded on 27 February 2020. In response, the Government of Nigeria shut its international borders and imposed a nationwide lockdown on 30 March 2020 to curtail the spread of the disease (Building Blocks for Peace Foundation, 2020). The Presidential Task Force on COVID-19 was set up with a mandate to drive the country's fight against the pandemic in coordination with the Nigeria Centre for Disease Control (NCDC) (Idowu, 2020). Prior to the announcement of the index case, Nigeria and a few other African countries had undergone some training on COVID-19 from the Africa Centres for Disease Control (Africa CDC) and had three COVID-19 testing laboratories across the country. The number of COVID-19 testing laboratories rapidly increased to over 70 across Nigeria by the end of 2020 (NCDC, 2021). The country also began to increase its testing

rates, which lagged behind those of other African countries such as Ghana and South Africa (Building Blocks for Peace Foundation, 2020). The national lockdown that was in place in varying degrees from March to June 2020 totally restricted inter-state and intra-state movement of people, except for essential workers such as health-care professionals, and led to the closure of businesses (Ogunode *et al.*, 2020).

However, the COVID-19 response in Nigeria has inadvertently had several unpleasant consequences. First, it led to the shutdown of the informal economy. Nigeria's economy is largely reliant (70 per cent) on informal businesses, where people rely on daily wages to survive. The sudden lockdown denied millions of people of their means of livelihood and led to widespread hunger and poverty (Building Blocks for Peace Foundation, 2020). In addition, COVID-19 has worsened incidents of criminality across Nigeria (Idowu, 2020). Kidnapping for ransom is one of the criminal offences that has increased during COVID-19. Unlike typical security threats that are endemic to particular regions of the country, such as terrorism in the north-east, the kidnapping for ransom phenomenon cuts across both the northern and southern parts of Nigeria, thereby uniting them in insecurity (Tayo and Obisesan, 2021).



Figure 2. Political map of South Africa

Furthermore, mismanagement of COVID-19 palliatives, which are various forms of support to the most vulnerable, including food, medicines and other supplies, is another fallout from the response to COVID-19 in Nigeria. At the onset of the pandemic in Nigeria in March 2020, the Government received a lot of local donations from the corporate sector, including banks, companies and private individuals. A group of private philanthropists came together to create the Coalition Against COVID-19 that generated billions of naira in funds to alleviate the suffering of the poor and cushion the effect of the pandemic on the livelihoods of vulnerable Nigerians (Sanni, 2020). Despite the highly publicized procurement of relief materials and palliatives, which ought to have been distributed at the height of the national lockdowns between March and May 2020, they did not get to the target beneficiaries as they were hoarded and corruptly misappropriated.

The discovery of warehouses fully stocked with palliative supplies across the country during the youth protest against police brutality in October 2020, symbolized by a notorious police unit called the Special Anti-Robbery Squad (SARS) and dubbed the #EndSARS protest, contributed to the violent turn of the protest as citizens vandalized and looted the warehouses supposedly to get their share of the COVID-19 palliatives (Sanni, 2020). Likewise, the pandemic exacerbated existing conflicts in Nigeria. During the lockdowns, the Boko Haram terrorist group shifted the focus of its attacks from civilians in their homes to security forces, such as military installations (Idowu, 2020). In 2020, during the COVID-19, 1,606 deaths were attributed to the Boko Haram insurgency, whereas 736 deaths were caused by Boko Haram in 2019, the pre-COVID-19 era (The Guardian Nigeria, 2020).

The field research also revealed some realities of the impact of the COVID-19 pandemic on peace and security. A Nigerian postdoctoral fellow at the Centre for the Advancement of Scholarship at the University of Pretoria identified that the COVID-19 response measures themselves have been a source of conflict, particularly the mismanagement of palliative measures in Nigeria (interview with a Nigerian postdoctoral fellow at the University of Pretoria on 19 April 2021). They explained that the palliatives were corruptly appropriated to the buoyant and influential elites while the most vulnerable people, who were in dire need of the palliatives, received very little aid. Furthermore, more people have been pushed below the poverty line, with the World Bank noting a jump in the poverty rate from 40.1 per cent in 2019, in the pre-COVID-19 era, to 42.5 per cent in 2020 due to COVID-19, thereby pushing seven million people into poverty (The Africa Report, 2020). A Nigerian professor of history at the University of Ibadan corroborated the reality of grinding poverty, which they attributed to hardline lockdown measures with limited palliatives (interview with a Nigerian professor, 18 April 2021). In addition, the

government response was denounced by a Nigerian youth peacebuilder and a founder of the Galaxy for Peace and Integrity Initiative, a youth-led peacebuilding organization, as quite slow and lacklustre as the Government failed to take decisive action in shutting down the borders and banning intra-country movement immediately after the first case was announced. The breakdown of trust in the Government was evident in the Nigerian public's disbelief in the reality of the pandemic and the efficacy of the COVID-19 vaccines. In addition, the youth peacebuilder with the Galaxy for Peace and Integrity Initiative claimed that the pandemic has worsened insecurity incidents in Nigeria and has led to the diversion of core funding from combatting insecurity to COVID-19 response measures. This finding from the field corroborates the assertion of Idowu (2020) that criminals have become more deadly in the wake of the COVID-19 pandemic in Nigeria.

### South Africa

According to the Johns Hopkins Coronavirus Resource Center, on 30 April 2021, South Africa had recorded 1.58 million cases with 54,331 fatalities and 1.5 million recoveries. It has the highest number of COVID-19 infections in Africa. The rainbow nation recorded its first index case of COVID-19 on 5 March 2020 when a citizen brought it into the country after a trip to Italy. The Government declared the pandemic a national state of disaster on 15 March 2020 according to the Disaster Management Act (Goitom, 2020). It proceeded to introduce one of the strictest lockdowns: a 21-day lockdown from 23 March 2020, leading to the closure of schools and prohibiting all forms of movement except for emergencies and essential workers (Magongo, 2020) and banning incoming travel from high-risk countries in North America and Europe (Goitom, 2020). The COVID-19 response was led by an inter-ministerial committee on COVID-19, an emergency operations centre and the National Coronavirus Command Council, which was chaired by the President (Sekyere, 2020).

However, the virus quickly spread across the country, especially in overcrowded informal settlements where social distancing was simply not possible due to poor housing infrastructure (Magongo, 2020; Sekyere *et al.*, 2020). COVID-19 created more vulnerabilities for people in the informal economy as they could not afford to abide by the shutdown of the informal economy and social distancing, which resulted in a spike in cases (Sekyere *et al.*, 2020). The formal non-agricultural sector in South Africa lost 648,000 jobs during the COVID-19 lockdown (Department of Statistics, Republic of South Africa, 2020). The low capacity of the health-care system and a large high-risk population, including people living with HIV and tuberculosis patients, contributed to the spread of the virus. Criminal activities have increased as people struggle to make ends meet during these tough COVID-19 times (Mangiza and Chakawa, 2021).

In the same vein, South Africa suffered from widespread panic as the COVID-19 virus hit the country. This was due to misinformation and inadequate public health communication (Costa, 2020). In spite of consistent government messaging, distrust in the Government led to rumour-mongering on social media and news platforms (Costa, 2020). Prior to COVID-19, there were fewer reports of gender-based violence, which rapidly escalated during the lockdown. Gender-based violence rapidly increased, with 2,230 cases reported in the first week of the national lockdown in March 2020, marking a 30 per cent rise compared to the same dates in 2019, before the COVID-19 pandemic (Medecins sans Frontieres, 2020). However, the ban on alcohol sales was seen to have a positive effect on reduction of violent crime in South Africa, as the absence of alcohol led to fewer risky behaviours, especially in crime-prone areas (Sekyere *et al.*, 2020).

Likewise, a South African PhD researcher at the Department of Public Administration at the University of Zululand noted that the pandemic had widened social inequalities as the poor became more impoverished due to the severity of the lockdowns and the struggling economy. With increases in food and water scarcity as well as competition for scarce resources, he noted that COVID-19 has further diminished the ability of the Government to tackle societal challenges due to the diversion of crucial state resources from social issues to COVID-19 response measures (interview with a South African PhD researcher at the Department of Public Administration at the University of Zululand, 20 April 2021).

Furthermore, a South African PhD researcher in conflict management at the Nelson Mandela University, who is also a research consultant at ISS, identified increased police brutality as an emergent issue that has arisen due to enforcement of COVID-19 lockdowns in an interview on 14 June 2021. Likewise, the PhD researcher at University of Zululand explained that police corruption also increased during the enforcement of pandemic lockdowns (interview with a South African PhD researcher at University of Zululand, 20 April 2021).

### **The role of higher education in post-COVID-19 recovery**

Higher education institutions have a key role to play in promoting peace and security in any society. In Africa, the attainment of the Sustainable Development Goal 16, on peace, justice and strong institutions, is highly dependent on collaboration between the town and the gown as well as the so-called third mission of universities, whereby universities play an integral role in community development (Compagnucci and Spigarelli, 2020). The International Association of Universities (IAU) has emphasized guidelines for higher education institutions to participate fully in

achieving sustainable development, including the Education for Sustainable Development programme (IAU, 2017). Higher education plays four major roles in respect of the Sustainable Development Goals: teaching and learning, research and development, operations and governance, and external leadership (Sustainable Development Solutions Network, 2017, as cited in Milton, 2021, 92).

Higher education is instrumental to the attainment of the goals of the 2030 Agenda for Sustainable Development as it trains future leaders. Universities and research institutions are also key to eliminating negative trends, such as “poverty, child mortality, unemployment and low education levels.” (IAU, 2017). The impact of the COVID-19 pandemic on higher education institutions includes disruption of the academic calendar, with the resultant gap in teaching along with a drastic drop in international education applications (Ogunode *et al.*, 2020). During the field research, both Nigerian and South African researchers noted that although both countries had to shift to online learning during the pandemic, the inadequate technology infrastructure, such as low internet access and poor mobile telephone networks, led to the exclusion of large numbers of students, especially in rural areas (interviews with Nigerian and South African peacebuilding researchers, 19 and 20 April 2021).

The role of higher education was determined by the respondents as the following. First, peacebuilding higher education and researchers should teach the ideas of Sustainable Development Goal 16 to vulnerable young people outside the formal school system. A Nigerian United Nations Office on Drugs and Crime (UNODC) Education for Justice (E4J) youth champion and the Media Director of Building Blocks for Peace Foundation noted that universities had to provide access to Sustainable Development Goal 16 learning on anti-corruption and crime to out-of-school young people who are most at risk of engaging in criminal tendencies due to COVID-19 deprivation (interview with UNODC E4J youth champion, 18 April 2021). The Nigerian UNODC E4J youth champion underscored the fact that E4J and by extension the higher education system tended to leave vulnerable young people behind, particularly those outside the formal school system (interview with UNODC E4J youth champion and Nigerian youth peacebuilder, 18 April 2021). Ironically, these vulnerable young people are the demographic that are in dire need of peace education. Similarly, a Nigerian Professor of History at the University of Ibadan maintained that the COVID-19 disruption in the educational sector provided an opportunity to rethink pedagogy methods in the post-COVID-19 recovery phase, such as reaching out to a wider audience than the traditionally limited academic audience. This idea is supported by the Organisation for Economic Co-operation and Development (2020), which stated that higher education faculties are crucial in reskilling people whose livelihoods have been lost to the pandemic and creating new opportunities for their personal development.

Milton (2021) also argued that the most impactful way to contribute to the attainment of Sustainable Development Goal 16 is by teaching it to students and researching it.

Second, academic researchers should take the lead in providing evidence-based research to spark post-COVID-19 recovery, such as conflict-sensitive responses to COVID-19, accountability and citizen-centred security sector responses to the enforcement of COVID-19- related lockdowns and the creation of social safety nets to build pandemic-resilience in African populations. The Nigerian postdoctoral fellow at the Centre for the Advancement of Scholarship at the University of Pretoria insisted on the critical role that higher education has to play in sustainable COVID-19 recovery (interview with a Nigerian postdoctoral fellow at University of Pretoria, 19 April 2021). Furthermore, a Nigerian PhD researcher in development studies at Niger Delta University lamented the low priority placed on funding peacebuilding research and called on the Government to value evidence-based research that is required for sound policymaking in relation to spurring post-COVID-19 recovery (interview with a Nigerian PhD researcher at Niger Delta University, 13 April 2021). Another way to prioritize higher education is for the Government of Nigeria to create a dedicated federal agency to promote the development of cutting-edge research that is useful for policymaking (interview with a Nigerian postdoctoral fellow at the University of Pretoria, 19 April 2021). Meanwhile for South Africa, a PhD researcher in public administration at the University of Zululand noted that higher education received good funding by the Government of South Africa, as universities and researchers received grants and were ranked based on their research outputs in high-impact journals. They noted that the universities played a key role in producing guidance on COVID-19 safety protocols and proffering evidence-based solutions to COVID-19-related crises. However, they noticed that predominantly black universities saw low levels of engagement during the lockdowns as their students from comparatively poorer backgrounds could not access digital learning due to low internet penetration at home.

Furthermore, higher education institutions and peacebuilding researchers should lead the building of bridges across dividing lines to manage COVID-19-related conflicts. Higher education institutions are able to leverage their resources and functionality to bring groups together, such as organizing local community dialogues, conferences and multi-stakeholder roundtables, to tackle common challenges (Milton, 2021). This is a result of the perceived superior capacity of peacebuilding researchers and their predisposition towards being neutral and impartial (Milton, 2021). The South African PhD researcher at Nelson Mandela University, who is also a research consultant at ISS, emphasized the need for research and higher education institutions to use their position and resources to create multi-stakeholder dialogues. They recalled one such

externally funded research project at ISS that succeeded in bringing civil society organizations, academics and government officials to discuss ways to empower local actors to actively participate in decision-making (interview with a South African PhD researcher at Nelson Mandela University, 14 June 2021).

The Nigerian Professor of History at the University of Ibadan explained that the Government and other stakeholders should tap into the expertise of the peacebuilding faculty to offer solutions to the ongoing COVID-19-related conflicts and to chart a new way forward with regard to sustainable recovery. Likewise, the South African PhD researcher at the University of Zululand noted that universities should forge strong partnerships with other community stakeholders, such as community leaders, local civil society organizations, the Government and policymakers, to be able to improve the standard of living of people at the grassroots level who are most affected by COVID-19 crises. However, universities have to model the good governance that they advocate for in society within their own systems (Milton, 2021).

Furthermore, South African PhD researchers at the University of Zululand and Nelson Mandela University noted that universities are important in community development and asked for closer collaboration between universities and communities, such as through the creation of joint forums. Such forums would ensure that both actors are learning from each other and contributing to their mutual growth and benefit (interviews with South African PhD researchers at the University of Zululand and Nelson Mandela University, 19 April and 14 June 2021).

Pandemic preparedness is one issue that was supported by the researchers as a contribution from higher education. The South African PhD researcher in public administration at the University of Zululand noted that the pandemic will leave an indelible mark on the continent. This correlates with the position of Adjei (2020) that the pandemic will harm the African communal perception of interdependence as well as the conception of one's spirituality and personhood.

According to the researcher, "Another pandemic is surely coming. Now is the time to begin preparing for it so we are not taken unawares. The African culture is one of communalism and pan-Africanism. We are always together and like to live and interact in groups. However, COVID-19 has introduced social distancing and this individualistic lifestyle which will continue to impact our communal African lifestyle long after COVID-19 is gone." (interview with a South African PhD researcher at the University of Zululand, 20 April 2021)

The PhD researcher in conflict management at Nelson Mandela University noted that Africa ought to have developed a stronger response to the pandemic due to its

experience of battling previous outbreaks such as Ebola and cholera. Having battled Ebola and COVID-19 in the same decade, it is imperative to begin to prepare for the next pandemic.

## The role of youth peacebuilders in post-COVID-19 recovery

Youth peacebuilders, on the other hand, have recently been identified as being at the forefront of ensuring sustainable peace and security through the Security Council resolutions on youth, peace and security adopted in 2015, 2018 and 2020. Young people under the age of 25 make up to 60 per cent of Africa's population and yet play a very marginal role in the peace and security architecture (Mo Ibrahim Foundation, 2019).

A Nigerian youth peacebuilder at Building Blocks for Peace Foundation and a UNODC E4J youth champion noted that COVID-19 has severely impacted young people in Nigeria, particularly through the loss of jobs and the closure of schools. According to this person, Nigerian young people who had already grappled with high unemployment rates during the pre-COVID-19 era, moved to the informal economy as daily wage earners. They were severely affected by the harsh lockdowns which prevented them from earning a living. However, they noted that Nigerian youth peacebuilders had proactively contributed to managing COVID-19-related conflicts by distributing palliatives to vulnerable populations and dispelling COVID-19 misinformation campaigns through webinars and online advocacy (interview with a Nigerian youth peacebuilder at Building Blocks for Peace Foundation and E4J youth champion, 20 April 2021). When reflecting on how young people could drive COVID-19 recovery, they identified that Nigerian young people had to put aside their ethnic and religious differences and unite to push for change. The roles that youth peacebuilders should play in promoting sustainable post-COVID-19 recovery include the following:

First, youth peacebuilders should collaborate with each other to harness their skills and make more impact. A Nigerian youth peacebuilder maintained that young people should come together to form strong coalitions to amplify their impact and learn best practices from each other. They explained that: "A good example is the Nigeria Coalition on Youth, Peace and Security, a network of over 50 youth-led peacebuilding organizations where we come together to jointly implement projects, share best practices and advocate for a better space for us in Nigeria's peace and security architecture. This way, we are able to make more impact in the vulnerable communities where we work and empower each other." (interview with a Nigerian youth peacebuilder at Building Blocks for Peace Foundation, 19 April 2021).

Similarly, young people should begin to act now to change the status quo for the better. A South African youth peacebuilder at the Zwane Youth League maintained that young people should take the initiative and act rather than waiting for policymakers or other stakeholders. In Esikhawini Township, their youth team are intervening in inter-family disputes to reconcile children and their parents, and providing homes for destitute children. They bemoaned the severe impact of COVID-19 on human security, leading to high unemployment rates, higher costs of living and increased food insecurity (interview with a South African youth peacebuilder at the Zwane Youth League, 20 April 2021). In addition, they traced the side effects of the harsh COVID-19 lockdowns to include heightened cases of gender-based violence. As gender-based violence is often perpetrated by people close to the victims, the lockdowns inadvertently trapped victims in one space with perpetrators, which led to severe violence and subsequent casualties (interview with a South African youth peacebuilder at the Zwane Youth League, 20 April 2021). Likewise, the South African youth peacebuilder and the Executive Director of Spear of Youth noted how their organization took action in the rural towns of Mgobodzi, Magudu and Sibange to counter COVID-19 by conducting sensitization campaigns, donating COVID-19 safety supplies, such as masks and sanitizers, and implementing social distancing regulations during public functions, such as collection of entitlements by pensioners.

A Nigerian youth peacebuilder and a founder of the Galaxy for Peace and Integrity Initiative underscored that young people suffered the harshest impact of the pandemic, such as job layoffs, which roughly impacted on their livelihoods; inadequate protection as essential workers during the pandemic; and uncertainty about their academic and professional future (interview with a Nigerian youth peacebuilder at the Galaxy for Peace and Integrity Initiative, 19 April 2021). To mitigate this and other conflicts that have emanated from the COVID-19 response measures, the Nigerian youth peacebuilder and their team at the Galaxy for Peace and Integrity Initiative organized COVID-19 sensitization activities in local communities, launched online peace education trainings and provided palliatives for vulnerable populations of women and young people in rural areas. They also concurred with other Nigerian and South African peacebuilders on the need for young people to take charge of their future. Thus, young people are urged to collaborate with each other, especially in such times of upheaval, to push for social change and sustainable post-COVID-19 recovery (interview with a Nigerian youth peacebuilder at the Galaxy for Peace and Integrity Initiative, 19 April 2021).

Finally, young peacebuilders should constructively engage other stakeholders and encourage them to be mainstreamed into COVID-19 recovery processes. All four of the young

peacebuilders who were interviewed concurred that while young people should act to make a change, they should also work in concert with other stakeholders to have a sustainable impact. According to the Nigerian founder of the Galaxy for Peace and Integrity Initiative, “No person is an island. Young people cannot make the change that we need all alone. We need to push for inter-generational dialogues so we can learn and collaborate with other stakeholders including our elders, religious and traditional rulers as well as the government.” (interview with a Nigerian youth peacebuilder at the Galaxy for Peace and Integrity Initiative, 19 April 2021)

Despite leading change, the youth peacebuilder maintained that leaders should be held accountable and constructively engaged by young people so as to drive the recovery process. In the spirit of the Sustainable Development Goals drive to “leave no one behind”, the Nigerian founder of the Galaxy for Peace and Integrity Initiative argued that the Government and policymakers should mainstream young people into the design and implementation of post-COVID-19 recovery. Likewise, the Nigerian UNODC E4J youth champion clarified that as the pandemic has severely impacted the present and future of young people, youth peacebuilders and development workers should play key roles in ensuring that recovery plans are youth-sensitive and responsive to their priorities and needs (interview with a Nigerian UNODC E4J youth champion, 19 April 2021). Across Nigeria, South Africa and the entire African continent, it is noted that the Government needs to rebuild trust between them and their young people.

Polo (2020) also emphasizes the need to rebuild citizen trust in Governments and security forces, which is required to influence compliance with public health regulations on COVID-19. African young people feel disconnected from their leaders who are very elderly and do not understand their dreams and aspirations. In Nigeria, for instance, the Government and young people appear to be at loggerheads, with each distrustful of the other, particularly in the aftermath of the #EndSARS youth protest against police brutality of October 2020, which ended with fierce repression by the Nigerian security forces (Sanni, 2020). Thus, the Nigerian youth peacebuilders noted that trust is needed to be rebuilt between the two groups to enhance social cohesion and chart a new path forward (interviews with the Nigerian founder of the Galaxy for Peace and Integrity Initiative and a Nigerian UNODC E4J youth champion, 19 and 20 April 2021). In the same manner, the need to strengthen institutions came out strongly from the field research. The slow response of the Government of Nigeria to closing international borders to forestall COVID-19 infections was singled out as a critical factor in the spread of the virus and indicative of the disconnect between the country and its citizens (Building Blocks for Peace Foundation, 2020). This inaction in shutting the

country’s borders has been acknowledged by the Government of Nigeria as a major flaw in their COVID-19 response plan (Presidential Task Force on COVID-19, 2020).

### **Synergizing higher education and youth peacebuilding roles in post-COVID-19 sustainable recovery**

The field work carried out with academic researchers and youth peacebuilders revealed some concrete ways for both actors to synergize and drive post-COVID-19 recovery in Nigeria and South Africa. First, it is crucial to build strong partnerships between higher education researchers and youth peacebuilders to leverage their unique abilities to ensure that both countries build back better. Higher education and research institutions are uniquely placed to produce cutting-edge peacebuilding knowledge to galvanize sustainable recovery. Youth peacebuilders, on the other hand, are embedded in the everyday realities of their communities and are best placed to generate a bottom-up approach to peacebuilding that is inclusive of marginalized actors and therefore more sustainable. Synergies can be built with strong partnerships between these two groups thereby enabling the town and the gown to collaborate effectively to uplift their societies. This idea was also supported by the Nigerian PhD researcher in development studies at the Niger Delta University who also works as a media coordinator at Search for Common Ground, an international peacebuilding non-profit organization, when they argued for higher education and local peacebuilders to avoid working in silos and instead to synergize to have more impact (interview with a Nigerian PhD researcher at Niger Delta University, 13 June 2021). They urged that, “higher education needs to partner with peacebuilding organisations. Universities can participate in project reflections and experience shared meetings of peacebuilding organisations. The academic community should be willing to publish the lessons learned and recommendations from peacebuilding projects in high-impact academic journals so both can work together to build peace.” (interview with a Nigerian PhD researcher at Niger Delta University, 13 June 2021).

Similarly, higher education institutions should make their research accessible to youth peacebuilders to improve the quality of their interventions. The Nigerian PhD researcher in development studies at Niger Delta University noted that most peacebuilding academic articles feature technical jargon and are too theoretical, making it difficult for practitioners such as youth peacebuilders to easily understand and incorporate new peacebuilding techniques into their interventions. Academics should also endeavour to share their research beyond conventional journals to include mainstream media and peacebuilder practitioner networks to ensure their use in the field. In the same vein, the South African PhD researcher in conflict management at Nelson

Mandela University emphasized the need for researchers to be flexible enough to adapt their research agendas to current needs and realities, such as producing research geared towards post-COVID-19 recovery.

Finally, efforts should be made to support youth peacebuilders in developing youth-led research based on their peacebuilding experience. A South African youth peacebuilder and the Executive Director of Spear of Youth noted that young people had acquired significant experience from their interventions in education entrepreneurship and skills development, which should be developed and shared with other key stakeholders. Furthermore, a Nigerian UNODC E4J youth champion, who is also the Media Director at Building Blocks for Peace Foundation, noted that their organization has taken the lead in producing evidence of the impact of 17 youth-led peacebuilding organizations across Nigeria in its flagship publication, entitled *Connecting and Amplifying the Voices of Youth Building Peace in Nigeria*, that was launched in December 2020.

## Discussions

The respondents from Nigeria and South Africa noted that the health-care system was ill-equipped to handle the devastation caused by the rampaging pandemic. Both health-care systems were poorly equipped with inadequate resources and insufficiently trained health-care personnel. At the beginning of the COVID-19 pandemic, Nigeria and South Africa struggled to provide personal protective equipment that was required to protect their health-care staff from the disease (Chersich *et al.*, 2020). The Nigerian health-care system is particularly in a dire state, with poorly remunerated doctors and failing infrastructure leading to frequent strikes by public health-care professionals, which is causing the grounding of the health-care system. Across Africa, health-care systems suffer from underfunding and a shortage of adequately trained personnel. Africa urgently needs to revamp its health-care system to stand a chance of protecting its large population from future pandemics. As a South African PhD researcher at the University of Zululand pointed out, the spread of the Ebola outbreak should have led to the rapid development of the African health-care system, which would have been helpful in combatting the COVID-19 pandemic (interview with a South African PhD researcher at the University of Zululand, 19 April 2021).

In addition, Governments in Africa need to take decisive steps to tackle new security challenges relating to COVID-19, such as kidnappings, theft and violent attacks, and existing conflicts such as terrorism, violent extremism and banditry. Security measures in the light of the COVID-19 pandemic include enhanced early warning and response systems, citizen-centered policing and security sector reform to tackle domestic crimes, such as gender-based violence. Existing

conflicts that Governments in African are contending with have been worsened by the COVID-19 pandemic. Nigeria was battling conflicts such as the Boko Haram insurgency, farmer-herder clashes and banditry, and COVID-19 and its deprivation has brought new violence, such as kidnapping for ransom, which has bedevilled the entire country, with perpetrators acting with reckless impunity (Tayo and Obisesan 2021). The heightening of inequality between the rich and the poor has led many vulnerable people to adopt crime as the only means to survive. There is a limit to the roles that higher education and youth peacebuilders could play in managing COVID-19-related conflicts. The buck stops with the Government, which needs to respond appropriately to rein in criminals and ensure peace and security. A successful post-COVID-19 recovery, which is desperately needed by two of Africa's largest economies, will only be possible in a secure environment.

Furthermore, youth-sensitive funding should be made available to youth peacebuilders to enhance their role in promoting post-COVID-19-recovery. The youth, peace and security agenda, as captured by the Security Council resolutions, identified how young people are critical partners for peace, through participation, conflict prevention, partnerships, protection, disarmament and reintegration. Youth peacebuilders are crucial to shaping peaceful attitudes in their peers, using unconventional youth-friendly approaches such as arts, sports and the media. Despite the clear advantages of youth-led peacebuilding organizations, their impact is often constrained by prevalent societal biases of young people as violence perpetrators rather than agents of peace, limited partnerships with local and international civil society organizations and insufficient funding. Donor funding in the peace and security space often goes to international and local peacebuilding organizations with established track records of impact, solid organizational structure and expert personnel. Thus, youth peacebuilding organizations that have comparatively limited years of experience and dynamic organizational structures populated by community volunteers are left out of these large funding streams, thereby constraining their impact. Donors should develop specific funding streams to fund youth initiatives that are tailored to the nature and capacity of youth peacebuilding organizations. Such youth-sensitive funding should have less complicated application requirements, especially with regard to proposal narratives and budgeting submissions. There should also be an emphasis on providing core long-term funding rather than short-term project-based funding, which will enable them to scale up and attain financial sustainability.

Likewise, universities should be further mainstreamed into community development. The impact of higher education institutions should be felt in their immediate communities and societies. This will guard against the perception of local peacebuilding researchers as privileged outsiders

who are out of touch with local realities (Milton, 2021). Thus, Governments should invest in universities so they can strengthen the nexus between evidence and policymaking. Across Africa, policies by Governments at various levels are often not based on evidence but on the idiosyncrasies of rulers or political parties and ethnic or religious sentiments (interview with a Nigerian postdoctoral fellow at the University of Pretoria, 19 April 2021). Universities should produce evidence-based research that will provide a springboard for impactful policies. In order to do so, higher education faculties and researchers have to be attuned to the peculiarities of their environment and be willing to contribute to local development (IAU, 2017). Unfortunately, higher education across the African continent suffers from inadequate government and local-stakeholder funding. Most African researchers rely on funding from external donors who are funding research that is focused on international issues of interest to them, rather than on what is best for Africa (Milton, 2021). Universities are increasingly becoming side-lined as producers of Sustainable Development Goal 16-related research, with donors preferring practitioner research such as that produced by international peacebuilding organizations. Milton (2021) noticed the dilemma of higher education, between focusing on local issues or engaging universal knowledge systems, but advocated for universities especially in fragile conflict-ridden contexts, such as the Global South, to focus on researching local issues. More funding should be allocated to universities to mitigate the damage caused by COVID-19 to the educational system. African Governments, businesses and philanthropists should fund the so-called third mission of universities to ensure that they are making the necessary contribution to society (Compagnucci and Spigarelli, 2020). This is key to Africa's post COVID-19 recovery and to ensuring that all key stakeholder hands are on deck to effect the desired transformation.

## Conclusion

This paper has extensively discussed the role that higher education institutions and peacebuilding researchers and young peacebuilders can play in driving post-COVID-19 sustainable recovery in Nigeria and South Africa, two of Africa's largest economies and the seventh and first most COVID-infected states on the African continent. It began by tracing the emergence of COVID-19 in both countries and mapping out the response measures taken by the appropriate policymakers. Despite the official responses by the Governments of Nigeria and South Africa, this paper identified discrepancies and conflicts emanating from the COVID-19 pandemic, including widening inequality between the rich and the poor, an increase in gender-based violence, overburdening of the health-care systems and the mismanagement of COVID-19 palliatives intended for vulnerable populations. The paper went on to delineate

the roles of higher education in supporting a COVID-19 recovery, to include teaching the tenets of the Sustainable Development Guide 16 on peace, justice and strong institutions to at-risk young people outside the formal school system, the provision of evidence-based research to spark post-COVID-19 recovery and the building of bridges across dividing lines to manage COVID-19-related conflicts. Meanwhile, the roles of young peacebuilders in driving a sustainable post-COVID-19 recovery include creating synergies between youth peacebuilders, such as the creation of the Nigeria Coalition on Youth, Peace and Security (a coalition of over 50 youth-led peacebuilding organizations in Nigeria), to harness their skills and make more impact, to act immediately to change the status quo for the better and to constructively engage other stakeholders to be mainstreamed into COVID-19 recovery processes. The ways by which researchers and peacebuilders can build synergy in building back better in Nigeria and South Africa include building strong partnerships between academic researchers and youth peacebuilders, making higher education research accessible to youth peacebuilders to improve the quality of their interventions and promoting youth-led research based on their peacebuilding experience.

The recommendations for policymakers and key stakeholders include an overhaul of the health-care systems in Nigeria and South Africa to ensure pandemic preparedness; decisive action and political will from African Governments to ensure peace and security; the provision of youth-sensitive funding to youth peacebuilders to enhance their role in promoting post-COVID-19 recovery; and mainstreaming universities into community development.



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# Role of Universities in Ensuring Access to Justice for All: The Context of Bangladesh and Nepal

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## ABSTRACT

The Sustainable Development Goals (SDGs) were adopted in 2015 at the expiry of the Millennium Development goals (MDGs). The SDGs encompass 17 goals and 169 targets. Goal 16 refers to promoting peaceful and inclusive societies for sustainable development and providing access to justice for all. This goal is considered as the most aspirational SDG. The researcher will specifically focus on target 3 of Goal 16 which highlights equal access to justice for all in the context of higher education of two developing countries from South Asia: Bangladesh and Nepal. In this regard, the role of SDG 4 is important as it calls for inclusive and equitable quality education. The author will argue that higher education institutions can substantially contribute to ensure access to justice by endorsing relevant content in teaching and research. Teaching remains the direct *modus* of sensitizing students and building a generation of

youth promised to ensure access to justice for all. Research allows institutions to depict the existing scenario in the implementation of targets and suggest possible strategies to be followed. The paper will also shed light upon the role of universities in building partnerships with external agencies such as judicial organs, human rights commissions, local governments and NGOs, so that legal aid can best be provided to marginalised groups. Legal aid mechanisms will substantially contribute to shrink the gap in achieving the target and ensuring access to justice for all.

## KEY WORDS

►► Higher Education Institution / universities / Access to Justice / Legal Aid / Sustainable Development Goals / Bangladesh / Nepal.

## 1. Introduction

The Sustainable Development Goals (SDGs) were adopted after the ending of the Millennium Development goals (MDGs), to eradicate extreme poverty, ensure peace and bring prosperity to the planet. The goals encompass all challenges of the world and aspire to achieve the target by 2030. There are 17 goals with 169 targets (UN General Assembly, 2015). The key stakeholders to implement these targets are states, next to civil society. The biggest challenge is to transform these goals and targets in the context of each state's domestic system. The development of domestic strategies and policies is vital to the implementation of SDGs. The role of the government remains pivotal while citizens' participation cannot be ignored in proper implementation. Among the SDGs, Goal 16 aspires to achieve peace and ensure access to justice. Justice is preconditioned in order to build a lasting peace. Therefore, access to justice is an innate concept to pursue peace. Ensuring access to justice at the domestic level requires cumbersome efforts particularly in

countries where people cannot afford court proceedings. Particularly the poor and marginalised cannot cover the expenses of legal services and support, which results in failing to ensure access to justice for all. Both Bangladesh and Nepal, with the abundance of underprivileged groups, face this challenge. Overcoming this requires the involvement of diverse stakeholders. The author observes that preparing a generation of young lawyers compliant to the commitment of providing justice to the marginalised and poor is a sustainable option. Hence, the role of SDG 4 is relevant as it refers to quality education at all levels. Since study of law in these two countries is only available at the tertiary level, the present paper focuses on higher education institutions.

Many studies on higher education and its link to the SDGs have been published over the past five years focusing on how universities can contribute towards all SDGs (e.g. SDSN, 2017; McCowan, 2019). In the context of Bangladesh and Nepal, literature on SDG 16 is scant.

The present paper is a reflection on the need for endorsing legal aid mechanisms and access to justice concepts in higher education institutions in Bangladesh and Nepal. As law schools are the formal institutions for preparing lawyers and legal experts, there is no alternative for facilitating quality legal education to achieve the target. The author examines scenarios in Bangladesh and Nepal with respect to SDG 4 and SDG 16 as these two goals are fundamentally linked in order to achieve other goals.

## 2. Methodology

Scientific research needs a clear methodology to ensure better outcomes. Legal research is the cardinal element in order to bring changes in the society and move towards progress. A qualitative approach is the dominant one in legal research. Similarly, the approach in the present research is qualitative which includes analyzing texts and using examples found through desk research.

In most legal research, the doctrinal research methodology is followed – systematic analysis of statutory provision and rational ordering of the legal proposition. With this method, the researcher focuses on relevant statutes, rules and cases to analyse them in line with the benchmarks set. The present research is doctrinal encompassing analysis of both primary and secondary literature. Primary source includes resolutions, treaties, domestic laws, parliamentary proceedings and judicial pronouncements, whereas secondary sources are books, journal articles, online resources, statements and observations of relevant stakeholders, presented papers and newspaper articles.

The paper is desk-based research on the role of higher education institutions to ensure access to justice. Many people in Bangladesh and Nepal are vulnerable to get access to the courts and legal aid. Thus, taking this issue of SDG 16 and sub-target 16.3 in particular, in line with SDG 4 (Quality Education), the author analyses the possibilities, challenges and ways to implement SDG 16. Desk-based research involved a review of the literature linked to SDG 16, SDG 4 and broader debates in the area of how SDGs can contribute to ensure access to justice. Resources and materials pertinent to higher education in these two states are analysed. These resources include primary sources, most relevantly the websites and bulletin of the universities providing legal education in Bangladesh and Nepal. Furthermore, this is compared with secondary reports, for instance issued by UN agencies and other stakeholders, which include key observations on the role of universities for the SDGs in terms of teaching, research and external collaboration.

## 3. Background: Sustainable Development Goals

Agenda 2030, with the SDGs, was adopted at the United Nations Conference on Sustainable Development in Rio de Janeiro in 2012. Sustainable development, as a term, is flexible and its meaning and understanding vary. It is still evolving. The earliest and most acceptable definition of sustainable development was provided in Brundtland Commission as “development which meets the needs of current generations without compromising the ability of future generations to meet their own needs” (WCED, 1987).

The 17 goals with 169 targets have many positive aspects (Donoghue and Khan, 2019). These goals were adopted as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030. The SDGs are non-binding global goals. To that end, states and other relevant stakeholders have greater freedom to focus on priority SDGs and to tailor means of implementation to particular contexts (Janoušková *et al.*, 2018). The SDGs represent an ambitious and holistic agenda incorporating environmental issues, inequalities, and peace into global development norms (Milton, 2021). In the preamble of the UN General Assembly titled ‘Transforming our world: the 2030 Agenda for Sustainable Development’, human rights and equality are emphasised in the following:

‘The 17 Sustainable Development Goals and 169 targets which we are announcing today demonstrate the scale and ambition of this new universal Agenda. ... They seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls.’ (UN General Assembly, 2015).

Rights to equality and access to justice to ensure rule of law are fundamental human rights. Universities are important places for teaching these rights, and for conducting research on implementation of these human rights on the domestic level.

### 3.1 Bangladesh and SDGs:

Bangladesh has acted as an active participant in constituting a universal and transformative vision for a sustainable world and has supported Agenda 2030 from the beginning. Bangladesh has taken different steps to ensure the required institutional framework including resource mobilisation, technology, capacity building, trade and systemic coherence and identification of discriminatory provisions (General Economics Division, 2020a). To that end, the government has taken initiatives to ensure that all SDGs receive attention from the designated Ministry/Divisions and are implemented accordingly. Bangladesh has adopted the ‘whole of society’ approach by highlighting the ‘leave no one behind’ agenda

(General Economics Division, 2020b). The whole of society approach encompasses all actors i.e. government, private and civil society. This is needed to identify challenges and to encourage sustainability. Besides this, several consultations on stakeholder engagement with NGOs, CSOs, businesses, development partners, ethnic minorities, professional groups, labour associations, women's networks, and the media were helpful to raise more awareness, develop greater interest and enhance commitment to engage towards attaining SDGs (General Economics Division, 2020a). To ensure effective implementation, the Voluntary National Reviews (VNRs) of SDGs led by the 'SDGs implementation and Review Committee' is updating information and serving a complementary data analysis for sustainable development in Bangladesh. The government has also taken various initiatives to ensure the safety, well-being, and security of vulnerable sections of the society such as women and children. To address the challenges on the way to achieving the SDGs, Bangladesh has taken the strategic policy for effective implementation of SDGs including promoting gender equality, women's entrepreneurship and identification of discriminatory provision under target 16.b of SDG 16, which encourages the promotion and enforcement of non-discriminatory laws and policies for sustainable development. The effort of the government in ensuring access to justice for all, through legal aid mechanisms, is praiseworthy. It ensured that every district court has a designated legal aid officer from Judges to provide legal aid. This measure has already contributed to resolving an abundance of disputes. It was mentioned in the *Sustainable Development Goals: Bangladesh Progress Report 2018* that 80000 beneficiaries received legal aid in 2017 although the annual target was set at 37000. After 2017, the target was revised to include 90,000 litigants per year from 2020 (General Economic Division, 2018). It can reasonably be predicted that continuing such rates of achievement will contribute immensely in the achievement of SDGs by 2030.

### 3.2 Nepal and SDGs

Nepal started working with the SDG framework in 2016. The country has adopted initiatives to ensure effective implementation of Agenda 2030. The new constitution was adopted in 2015 and it progressively incorporates a global agenda of sustainable development. Nepal has formed three types of committees, namely (1) high level steering committee, (2) coordination and implementation committee, and (3) thematic implementation and monitoring committees. It places the emphasis on four ways of SDG implementation which are finance, technology, institutions and their capacity, and partnerships. The civil society organisations (CSOs)/community-based organisations (CBOs), cooperatives, private and academic sectors including international non-government organisations (INGOs), and research centres are directly and indirectly contributing to

materialise the SDGs in Nepal. The NGO federation of Nepal, being the lead CSO has formed an SDG forum and has been educating community people and conducting advocacy with policy makers for effective implementation of SDGs. In implementing SDGs in Nepal, the private sector also joined hands with the government (see Nepal's SDG Baseline Report, National Planning Commission, 2017).

Nepal is seeking to implement SDGs with the following strategy: first, it has mainstreamed SDGs into national, provincial and local systems. This is incorporated in the budgeting and planning system. Second, maintaining regular audits of the program. Third, strong collaboration development among federal, provincial and local governments for effective implementation of the SDGs. Fourth, building partnerships among public, private, cooperative, NGOs sector and development partners. Moreover, further avenues will be explored to implement SDGs (National Planning Commission, 2017). Regarding SDG 16, Nepal has committed to implementing all twelve, globally-accepted targets and 23 indicators. Implementation of these twelve targets requires participation in the implementation of other goals. Nepal has emphasised action on SDG 4 as a way to achieving SDG 16 (NFN, 2021). SDG 4 focuses on quality education and SDG 16 is about ensuring access to justice for all as well as building effective, accountable and inclusive institutions. Such institutions can only be built after getting representation of skillful persons. Educational institutions are main forum to prepare qualified and resourceful individuals. This is why SDG 4 is needed to implement SDG 16.

### 3.3 Legal Education in Bangladesh and Nepal

Legal education in Bangladesh has been offered since 1921, with the establishment of the University of Dhaka. Currently, legal education is facilitated in universities and colleges at the tertiary level; fifteen out of 50 government universities and most of the private universities offer legal education. Universities offering legal education have Bachelor of Laws (LL.B) and Master of Laws (LL.M) programs, and the higher research degree such as MPhil and PhD in law is limited to six government universities. It is undeniable that to bring changes to society and to respond to the demands of time, a generation of lawyers needs to be educated who will give priority to human rights, access to justice, rule of law and legal services to the marginalised on a priority basis. Thus, developing such issues in the *modus operandi* of the curriculum is vital.

Legal education in Nepal began in 1954 primarily to provide training to administrative officers in the area of justice. The LL.B formal curriculum began in 1959 in Tribhuvan University (Chakhun, 2014). Similar to Bangladesh, legal

education is facilitated at the tertiary level in Nepal. Currently, eight law colleges under four universities providing Bachelor of Laws and Master of Laws programs,<sup>54</sup> and Tribhuvan University is the only university to offer a higher research degree (Guragain and Acharya, 2020). The necessity of quality legal education in Nepal has largely been realised after the political and economic stability which resulted in the adoption of the new constitution. (Guragain and Acharya, 2020). Article 31 of the constitution of Nepal endorses the right to education as a fundamental right. It specifically mentions that 'The citizens with disabilities and economically indigent citizens shall have the right to get free higher education'. This is applicable in legal education as well. The Nepal Higher Secondary Education Board (HSEB) introduced a remarkable change in 2008 that stipulated that a course in General Law was to be taught in Grades 11 and 12. Altogether three papers of law, one in grade 11 and two in grade 12 were introduced at this level, However, these papers are optional as per the HSEB scheme. The objective of this course is to inculcate elementary knowledge of law at this level (Paudel, 2014, 568).

From a sustainable development perspective, particularly to contribute to the implementation of SDG 4 and SDG 16, these universities are the appropriate platforms where both Bangladesh and Nepal should put more emphasis on quality education and access. The inclusion of access to justice as a discourse in a larger range in the curriculum is important.

#### 4. SDG 16 and Target 16.3: Access to Justice

SDG 16 aims to 'Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels'. It is well recognised that the very fundamental notion of development cannot be achieved without peace (Collier *et al.*, 2003). This SDG is considered as the most aspirational SDG because it is connected to all other goals (Milton, 2021). Goal 16 is wide in that it encompasses challenges encountered in other goals. It requires having a robust system of justice delivery for all, and it deals with security, human trafficking, public participation, child abuse and combating violence (Kamua *et al.*, 2018; Milton, 2021).

The researcher specifically focuses on target 3 of SDG 16 which deals with equal access to justice for all, in the context of higher education of Bangladesh and Nepal. Access to justice requires the existence of justice delivery mechanisms and their accessibility to all citizens on equal terms, and the term access to justice goes beyond simply

access to the court. Thus, access to justice remains an individual's right even after reaching the court, and continues until justice is served to that individual. The concept is explained as providing legal aid for those in need, in order to enable them to have equal recourse to justice as those who possess the financial resources to meet the cost of lawyers and other incidental expenses of justice administration (Francioni, 2007).

In the context of Bangladesh, Article 27 of the Constitution bestows upon all citizens the right to equality before the law and equal protection under the law. The Constitution has also guaranteed the right to a fair trial. These provisions are fundamental to the state and infringement of such will lead the victim to reach the apex court for remedy. The Constitution of Nepal in Article 20 guarantees for right to justice. It further stipulates that free legal aid shall be provided to indigent people. According to Rule 6 (1) of Legal Aid Rules 1998, any person shall not be entitled legal aid if he has the annual income more than forty thousand Nepali rupees. The constitutional reference to access to justice, as teaching of constitutional law is part and parcel of legal education, is helpful to educate students on the concept. It is also a good opportunity to link SDG 16 in academic discourse on constitutional law.

SDG 16 has strong proximity with SDG 4 as the role of SDG 4 is necessary to the proper implementation of goal 16. SDG 4 mentions 'Ensure inclusive and equitable quality education and promote lifelong learning opportunity for all.' Sub-target 4.7, stresses the importance of education for sustainable development and refers to "human rights, gender equality, promotion of a culture of peace and non-violence" as a related aim in this target, connecting to SDG 16. The second global survey report on higher education and research for sustainable development, conducted by IAU (Mallow *et al.*, 2020) revealed that higher education institutions (HEIs) prioritised SDG 4 from among all SDGs, followed by SDG 5 and then SDG 3. SDG 16 is the fourth most prioritized goal in education and teaching among selected HEIs. The survey results also found that SDG 16 is paradoxically one of the SDGs that is not being developed as quickly by the higher education institutions. It has rather been considered an emerging work (Mallow *et al.*, 2020).

#### 5. SDG 4: Quality Education

Mallow *et al.*, 2020 highlight that higher education has been mentioned in target 4.3 within the Agenda 2030, but it should be seen as much more. The reason is that higher education is one of the enabling factors to achieve all SDGs. The role and relevance of higher education in the context of SDGs are explained from two perspectives. Firstly, SDGs are contributing to the transformation in the functions of higher education institutions in the form of teaching approaches,

54. Four universities Tribhuvan University, Kathmandu University, Purbanchal University, and Mid-Western University. The list of law colleges is available at <https://www.collegenp.com/law-colleges/>

research outcomes and performance of higher education institutions in line with the 2030 Agenda. Secondly, higher education institutions are themselves contributing to achieve the goals through teaching, research, collaboration with outside stakeholders including community involvement, training and funding etc. The institutions are promoting different aspects of SDGs by offering their venues and providing their resources. Moreover, the research centres at the institutions are engaged in the cardinal task of filtering the feasibility of SDGs implementation in the local context.

Higher education underpins all SDGs and trains future leaders. The International Association of Universities calls for more recognition of the decisive role higher education plays in driving the processes towards a more sustainable present and future. The aim is to bring the SDGs to the attention of more universities and to inspire them to take part as well as contribute to the implementation of the particular targets. In this regard, adopting whole institution approaches will largely contribute to implement the SDGs (van't Land and Herzog, 2017). The Whole-Institution Approach is supporting integration of sustainable development throughout the institution and involving all stakeholders in the SDG related strategies. It also requires ensuring reporting and monitoring mechanism so that progress can be ascertained. (Van't Land and Herzog, 2017).

The relevant part of higher education to the SDG 16 includes 'strengthening of both formal institutions and social norms, in areas such as governance, public services and the environment' (Oketch *et al.* 2014). Again, further relevance of higher education to the goal of access to justice can be extracted from Target 4.3 which commits to ensure equal access to affordable and quality education for all women and men. As this paper explains that the reason of failure to ensure access to justice for all in the context of Bangladesh and Nepal is the lack of awareness among the majority of the population due to the lack of education. The governments are guaranteeing legal aid if individuals cannot afford court access but the project is not working as envisioned, especially with respect to women, who remain furthest behind in accessing courts. The sustainable way to address this issue is ensuring education and support for these women. A good opportunity for law schools of both Bangladesh and Nepal, by adopting practical courses and field visit program, is to offer support to these marginalised groups and develop collaboration with local government, judiciary and local NGOs.

SDSN (2017) proposes a framework identifying four main functions through which higher education can contribute towards the SDGs – teaching and learning; research and development; operations and governance; and external leadership. The argument raised is that proper application of these criteria will result in direct contribution to the SDGs (Milton, 2021). In this paper, it is not possible to critically

engage with all pathways by which higher education can contribute towards core SDG 16 terms of peace, justice, and strong institutions. However, it is important to state that different approaches are needed fit to the local context. The prevalent criteria, standard and expectation of global north institutions will not fit in the present situation of two developing nations from the south, mainly due to lack of resources of every kind. Both Bangladesh and Nepal need a blending approach taking into account the standards of global north within the possible perimeters and adopting local needs. In the context of access to justice, including traditional justice delivery system like *shalish*, *panchayat*, village court etc in the curriculum is important.<sup>55</sup>

It is undeniable that higher education institutions can centres for contributing to the SDGs by developing curricula, introducing extra-curricular activities and engaging students (SDSN, 2017). The law schools are key stakeholders for carrying out the task of growing a generation of lawyers who will be bowed to the cause of access to justice. To this end, the author focuses on the teaching, research and collaboration of the higher education institutions in Bangladesh and Nepal to depict the possibility of contributing to ensure access to justice and thereby complement to achieve SDG 16.

## 5.1 Teaching

Teaching remains the direct *modus* of sensitizing students and building a generation of youths promised to pursue towards sustainable development. Teaching in the SDGs can facilitate education for sustainable development, jobs for SDG implementation, capacity building and mobilizing young people (Milton, 2021). Higher education institutions in developing countries are mostly teaching-based due to the lack of finances and infrastructure for carrying out research. In both Bangladesh and Nepal, higher education is perceived for the most as a form of teaching-based undergraduate and post graduate programs. In Bangladesh, the dominant component of legal education is lecture-based teaching (Law Commission, 2006). The same applies to Nepal (Paudel, 2014, 563). The universities have the best of the youth in the country and teachers are the appropriate instructors to teach these young minds. In order to foster sustainable transformation, teachers of higher education institutions have a key role to play. They can help students to understand SDGs and motivate them to follow SDG criteria. In Bangladesh, access to justice is taught in the course Alternative Dispute Resolution (ADR) as a weeklong module.

<sup>55</sup> *Shalish* and *panchayat* are traditional modes of settling disputes by local community people. These methods have been prevalent in Bangladesh and India since time immemorial. The headman of a particular community plays the role of mediator to settle dispute between parties. They do not apply law but settle according to local customs and traditions.

Recently, this course has been included in the curriculum in most of the law schools. However, no law school offers a whole course on access to justice. In Kathmandu School of Law, Nepal offers courses such as clinical legal education, and clinical work: advocacy service to community in the third year of BA LL.B. In later courses, students participate in the outreach program. The same is offered in the fourth and fifth year of LL.B. with a different focus (Kathmandu School of Law, 2019). It is also vital that higher education institutions can add sustainability issues to the teaching modules.

## 5.2 Research

Research is the key criteria for excellence in higher education. In order to filter the progress and backlogs in the implementation of SDGs, quality research can guide in the right direction. Research is often seen as the area where higher education can contribute the most to the achievement of the SDGs. Research is mentioned nine times in the original text of the 2030 Agenda which reflects its significance. The 2030 Agenda calling for increased science-policy interfaces which shows how important research is to help develop solutions to the complex problems of today's world (Mallow *et al.*, 2020). Research allows institutions to depict the existing scenario in the implementation of targets and suggest possible strategies to be followed. It is highly significant in the context of developing countries to have research based tertiary education so that the local problems can best be extracted and global standards can be brought to solve the problem. Research in the higher education institutions facilitates the achievement of the SDGs.

Firstly, quality research on the SDGs makes it more convenient for the audience to grasp and apply. Secondly, interdisciplinary and transdisciplinary research helps in understanding dynamics of different SDG goals and finds ways out to implement accordingly. In the context of Bangladesh and Nepal, lack of socio-legal research challenges the progress of research-based excellence. With regard to the urgent need for interdisciplinary research to achieve SDGs, the IAU Kyoto declaration recommended 'Encourage interdisciplinary and collaborative research programs related to sustainable development as part of the institution's central mission and to overcome traditional barriers between disciplines and departments' (International Association of Universities, 1993). The progress of interdisciplinary research for sustainability is supported by the findings presented in the IAU survey report which mentions that in terms of disciplines for almost all the SDG related areas of work, most of the respondents indicate that their HEI adopted both transdisciplinary and disciplinary approaches (Mallow *et al.*, 2020). Third, SDGs are certainly goals but implementation of these goals requires the proper means. The global governance system is not uniform. Each state has its uniqueness to issues embedded in SDGs.

Having research capacity in the local institutions is helpful for innovation and finding solutions for the respective system. Fourth, capacity building has no alternative but to excel and foster the research ambience (Milton, 2021). Thus, it is necessary to have platforms to look after the continuous process of efforts towards achieving the goals. Robust research programs can facilitate to that cause.

The project on identification of discriminatory provisions under the existing laws of Bangladesh, offered by the Ministry of Law, Justice and Parliamentary Affairs of the government of Bangladesh, is a gigantic research task under SDG 16 with particular focus on 16.b (Promoting and enforcing non-discriminatory laws and policies for sustainable development) undertaken by the law schools of four prominent universities. The task included filtering all laws currently enforceable in line with the benchmark of equality and non-discrimination as promised in SDG 16.b. In addition, the assigned law schools have recommended bringing in changes needed to these laws to ensure equality and non-discrimination (<https://legislative.gov.bd/site/page/a13bff7e-3312-4258-a555-57d29b425b6a/Ongoing-Project>, accessed 22 September 2021). It is the first ever research project of this nature to revisit all the laws of Bangladesh in line with the international standards as the mandate of SDG 16.b. Part of the task includes investigating laws pertinent to legal aid and access to justice. For Bangladesh, the recommendations on ensuring access to justice, providing legal aid and ending discrimination are insightful contributions to target 3 of SDG 16 which mandates for the promotion of the rule of law at the national and international levels and ensuring equal access to justice for all. On top of that, the assigned law schools have developed their capacity to the relevant SDG and will bear forerunner contributors to reach SDG targets.

## 5.3 Partnership Building

The role of universities in building partnerships with external agencies such as judicial organs, human rights commissions and NGOs is important particularly in order to provide legal aid to marginalised groups. In the spectrum of partnership building, the university can contribute to the SDGs in the following capacity. Firstly, public engagement allows higher education institution to introduce a wider audience to the issue. Secondly, cross sector dialogue and action helps to reach the marginalised. Third, policy development and advocacy contribute to the list of achievements (Milton, 2021). In the context of developing countries, and with the particular experiences of Bangladesh and Nepal, the range of project-based collaboration in legal research is very limited. In Bangladesh, law schools have no nexus with the legal aid office of the government or human rights commission. Some NGOs provide legal aid service and advocate for access to justice but rare involvement of law

schools is noticed. INGOs and local NGOs conduct research by their own hired consultants and experts from faculty members without involving law schools.

Globally, universities act as a partner for SDG implementation related research and policy engagement. Universities are a natural lead partner in 'cross-sectoral implementation of the SDGs, providing an invaluable source of expertise in research and education on all sectors of the SDGs, in addition to being widely considered as neutral and influential players' (El-Jardali *et al.* 2018). In achieving the goal of ensuring access to justice for all on equal terms within any legal system, there is no alternative to develop collaboration between and among law schools and organisations of different capacity. From the Nepal experience, examples of partnership building and collaboration on the implementation of SDGs include five projects undertaken by Kathmandu School of Law, Purbanchal University. The projects are Quality Education: COVID-19 risk assessment, Project Bajho, Project Panchi, Decent work and Economic growth: COVID-19 risk assessment, and Environment Nightmare of Airport Construction. These projects have been undertaken by Kathmandu School of Law in collaboration with the United Nations Academic Impact and the Millennium Campus Network (MCN) under the Millennium Fellowship Class of 2020 (<https://ksl.edu.np/news/15>, accessed 5 September 2021).

SDG 16 in particular provides an opportunity for northern universities at the core of global academia to mobilize resources and demonstrate external impact in addressing grand challenges including peace, governance, and global injustice (Milton, 2021). The collaboration of external agencies and bodies jointly participates in the online thematic modules on issues related to SDGs, free training courses for practitioners and lawyers on the issue of access to justice. The United Nations Office for Drugs and Crime in 2015 observed that 'higher education is a key catalyst for crime and the rule of law' and developed many free, online thematic modules on issues related to SDG16 including anti-corruption, crime, and counter-extremism that 'tend to get overlooked' in comparison to other SDGs (Milton, 2021).

## 5.4 Student participation

The particular means of utilizing higher education institutions in achieving access to justice enshrined in SDG 16 is educating students to the cause. In addition to the class lectures on access to justice and legal aid covered by such courses, the inauguration of clinical legal education in Nepal and Bangladesh is highly required. In this phase, students will get practical training where they will play the role of a lawyer. Within the curriculum, the law schools can organise seminars, conferences, guest lectures, mock trials

and moot court competitions to raise awareness among students on a larger scale on the importance of access to justice. The law schools, by establishing law clinics, may offer mediation in the form of alternative dispute resolution (ADR) to disputed parties. Currently, moot courts are quite regular activities in the law schools in both Bangladesh and Nepal. However, all components of clinical legal education should be endorsed in the curriculum. The report of the Law Commission of Bangladesh depicts the advantage of clinical legal education as:

'When young students at the formative stage of their career are exposed to community legal services, they get sensitised to the problems and needs specially of the marginalised sections of the people, and feel motivated to continue to work for them when they enter professional life (Law Commission, 2006).'

The involvement of students in realizing the essence of access to justice will bring an impact in the near future. As the large number of marginalised groups in Bangladesh and Nepal are deprived of access to justice, student awareness of the issue will largely contribute to implementing SDG 16 and target 16.3 on access to justice. The Law Commission of Bangladesh recommended inaugurating clinical legal education in law schools so that students can provide legal services to the community. In this process, they will be trained in real life situations and acquire opportunities to apply their legal knowledge and contribute to upholding the rights of marginalised sections of the community (Law Commission, 2006).

Implementation of access to justice as enshrined in SDG 16 needs the participation of large numbers of legal professionals and students. As students are considered the 'agents for change', student clubs are a useful forum for coalescing them. The aim can best be achieved through harnessing other platforms like UN agencies, NGOs, government bodies and statutory institutions. The tasks may include raising awareness, community engagement, volunteering and questing for innovative solutions (Milton, 2021).

Students can contribute immensely in ensuring access to justice by raising their voice and thereby pursuing action towards achieving SDG 16. In appealing to the state to take measures where discrimination and injustice prevails, student movements attract the attention of higher authorities and raise the issue among the common people, as well as compel authorities to take action. Many issues in Bangladesh have been reformed after students raised their voices. Reference can be made to the student demonstrations held in April 2018 against the special quota system used in recruiting civil servants in Bangladesh; students formed a human chain for several days, which resulted in the government announcing it would be scrapping

a decades-old system of recruiting government officials, seen as unfair (The Wire, 2018). During July-August 2018, another student mass protest on road safety across the country led to the enactment of a new Road Transport Act 2018 (BBC, 2018). The examples presented here show how student activism can drive change and influence political decision, hence this should also be the case to move forward for progress on the SDGs.

Challenges to the implementation of SDG targets are similar for Bangladesh and Nepal. The primary issue is that SDG 16-related research in Bangladesh and Nepal is donor-driven by NGOs. In such contexts, universities should come forward by mobilizing resources and aligning their education, research, and service missions to SDGs. This would be in line with common institutional responses for universities in this region (Brewer, 2018).

## 5.5 Inclusion of Legal Aid in the Curriculum and Strategy

The core objective of SDG 16, target 16.3, to ensure access to justice for all, cannot be achieved without providing legal aid to the marginalised. In order to do that, curriculum development on the significance of legal aid as well as mapping the numbers of people deprived of access to justice through research, is vital. Legal aid is a key tool to achieving access to justice. The poor and marginalised have always been at a disadvantage when it comes to accessing the courts in most situations. The infringement of fundamental rights against them have remained unheard since they cannot afford to reach the courts and file law suits. This is the scenario of both Bangladesh and Nepal. The court offices are urban-centric. Therefore, proper application of legal aid services will be a remarkable tool in both countries for achieving access to justice. One of the gruelling reasons found for the failure of effective application of legal aid mechanisms is the lack of publicity. A comprehensive legal aid programme needs to have extensive publicity to notify the potential beneficiaries who might utilize the service according to their needs. Therefore, the government is required to make widespread publicity of the programme, including what the service offers and how to access such services, and to provide other relevant information to the general public through print and electronic media or other appropriate means. In the context of Bangladesh, it was reported that most people, particularly the poor, who could be beneficiaries of the legal aid programme were ignorant of the fact (Khair 2008; Akter 2017). A household survey of 2015 indicates that 97% of respondents are unaware of any government legal aid office or committee (Moran, 2015). This is the grey area where universities can come forward and recommend developing laws and policies, cooperate marginalised people to access legal aid service through their clinical legal education program. They can

also work in collaboration with district legal aid office and local government. Integrating curriculum in law schools to facilitate internships for law students in these offices would be useful. In Nepal, Kathmandu School of Law offers clinical legal education for LL.B students in three consecutive years and is a remarkable addition to complement legal aid services and assistance to ensure access to justice in the long run (Kathmandu School of Law, 2019). Current legal education in Bangladesh has barely any component on clinical legal education although it was once part of the curriculum in the University of Dhaka and the University of Chittagong (Law Commission, 2006). Describing university law clinics in Bangladesh, Stephen Golub observed:

The clinics aimed to upgrade Bangladeshi student skills while exposing them to legal aid and NGO work. This experience takes place at a crucially formative stage in the students' careers, when many mix idealism with surprising cynicism about their profession's ethics and orientation (Golub, 2000).

## 6. Conclusion

The role of law schools in the implementation of the SDGs is primordial. It has been reflected that the 2030 Agenda for Sustainable Development is a commitment and also a challenge for universities because they are tasked with providing inclusive, equitable and quality education, and to promoting lifelong learning. Universities have the opportunity and responsibility to transform society and contribute achieving the SDGs by highlighting their role. This paper focused on different tasks universities can facilitate to achieve SDG 16, and sub-target 16.3, as well as linking to SDG 4.7. The most important aspect is to offer legal education programs in all government universities. Sadly, Bangladesh offers legal education in only 30% of government universities. Expanding legal education is vital to ensure access to justice in order to achieve SDG 16. The progress report on implementation of the SDGs in Bangladesh in its first five years emphasised that a quick settlement of disputes is prevented due to a lack of human and technical resources in the judicial department. Moreover, in incidences of violence, particularly domestic violence and violence against women, impunity is a major issue in the country (General Economics Division, 2020a). Thus, the expansion of legal education will substantially contribute to curb such challenges.

The author observes that teaching on SDG 16 is the viable catalyst to pursuing the goal of access to justice, particularly for Bangladesh and Nepal. The range of research facilities, infrastructural development and availability of resources are quite scanty. Similarly, collaborations, partnerships and joint ventures are not very common. The opportunity is also fragile. Therefore, law schools in both countries need to

incorporate access to justice and legal aid related lessons in their curriculum and teaching to contribute to implementing the SDGs. Developing robust planning and forming an effective working group in both countries is a pragmatic venture to reach the target by 2030. Forming the group will bring many prospects. First, a quite comprehensive and uniform lesson plan and teaching content can be used in both countries based on their domestic needs. The students will acquire useful and pertinent materials and lessons which will prepare them to bestow legal aid and commit to ensuring access to justice in their professional life. Second, the lesson plan and curriculum can be designed in line with the SDGs and aspirations so that a team of young lawyers would be prepared to commit to the SDGs as a priority. Third, the working group will itself be able to collaborate in research and innovation for sorting out solutions to the issue and develop collaboration with northern institutions as well as international organisations.

Universities in Bangladesh and Nepal can organise capacity-building events including seminars, symposia, conferences, workshops and short certificate courses to engage students and train professionals in furthering the objectives of SDG 16. Law schools can train young lawyers to commit to the rule of law and assist vulnerable groups to avail themselves of legal aid services. The International Residential School on Economic, Social, and Development Rights (ESDR) program of Kathmandu School of Law is a guiding event for other law schools in both countries (<https://ksl.edu.np/subcenter/esdr>). Law schools need to bestow their commitments in teaching, research, collaboration, student engagement and curriculum development in line with SDG 4 to achieve SDG 16. To that end, the government of both countries should come forward to extend cooperation with law schools. The cherished goal of ensuring access to justice for all will then not remain simply an illusion in Bangladesh and Nepal.



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# Biographical Notes

(in order of papers in the publication)

## Contribution of SDG 16 to a Sustainable Recovery in Light of the COVID-19 Pandemic

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## Bridging the Digital Divide during COVID-19: A Right to Internet Access and the Path Towards Sustainability in Education

by Fatima Mehmood, Pakistan

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## How changing economic inequality impacts homicide trends: A longitudinal analysis across 126 countries, 1990-2017

by Mateus Rennó Santos, USA

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of crime and criminal justice trends, on the effects of policy, and on the application data science to criminology.

## Strengthening teacher education for the promotion of ecological social justice in Mauritius

by Shameem Oozeerally, Helina Hookoomsing, Mauritius

Shameem Oozeerally is the Coordinator of the *Mauritius Institute of Education* (MIE) Language Studies Doctoral Research Laboratory, a member of the French Department, and a member of the MIE Research Unit. He has a PhD in language studies. His research interests include epistemology of languages, holistic education, complexity, multiliteracies, Creole studies and 'ecolinguistics'. He was a member of the Editorial Team for *Cahiers Internationaux de Sociolinguistique* (Special Issue No. 17) and he is currently the Editor of the MIE – UNESCO journal *Kaléidoscope Créole*.

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## The Prosecution of Environmental Crimes in the United States: Establishing a Baseline Using Comparative Analysis

by Monique Sosnowski, USA

Monique Sosnowski is a doctoral student at the John Jay College of Criminal Justice, New York, United States. She specializes in global environmental crime, focusing on wildlife crime and security issues. She holds an MSc in Global Wildlife Health and Conservation from the University of Bristol and an MA in Criminal Justice from John Jay College. Aside from her ongoing research engagements, which include projects for the US Department of State, Monique teaches various environmental crime and criminal justice courses and works as a wildlife crime advisor for a conservation solutions organization in Africa.

## The Importance of International Corruption Law and International Environmental Law to Achieve SDG16: An Analysis of Global Instruments Addressing Environmental Corruption

by *Imad Antoine Ibrahim, Qatar*

Imad Antoine Ibrahim is a Research Assistant at the Center for Law and Development (CLD), College of Law, Qatar University, Doha. He is also a Research Associate at the Global Law Initiative for Sustainable Development (gLAWcal), Essex, UK, and a Non-Resident Research Fellow at the Center for Innovation in Gas Research and Utilization (CIGRU) and Institute of Water Security and Science (IWSS), West Virginia University, USA. He has been working on global environmental issues and resources management from a legal perspective and their interplay with other fields such as emerging technologies, including Artificial Intelligence and Big Data. He also has been working on European commission projects in China on topics related to Climate change, energy, and environmental protection.

## Ethiopian Universities: Are they catalysing or calming Ethnic Conflicts

by *Bethlehem Metaferia Gebremariam, Ethiopia*

Bethlehem Metaferia G. is an Ethiopian researcher specialised in law who graduated from Hawassa University with LL.B in 2013, and LL.M in Human Rights Law from Addis Ababa University in 2017. Her research is focused on law and human rights in a domestic context; themes she works on include 'The role of judicial activism in addressing the best interest of a child case study at SNNPRs Supreme Court'. Her LL.M thesis focuses on 'Domestic Violence and Gaps in Access to Justice at Hawassa City'. Currently she is working on two ongoing research projects funded by her university. Furthermore, she has a strong interest to pursue a study on ensuring the enforcement of human rights and identity politics in Ethiopia.

## Anti-Corruption Measures Adopted By Higher Institutions of Learning in Cameroon

by *Rodrick Ndi, Cameroon*

Rodrick Ndi is a Ph.D candidate in Law (Faculty of Law and Political Science) at the University of Dschang, Cameroon. His research interests concern topics such as Human Rights, Good Governance, Consumer Protection, Employment Law, and related. He has presented at many events on these topics nationally. Currently, he is finalizing his thesis on "The Legal Challenges of Tax Collection in the Forest Sector in Cameroon." He is also a Business Law Lecturer at Higher Institute of Management and Entrepreneurship Douala.

## Ending human trafficking and all forms of exploitation through multiagency collaborations

by *Laura Pajón, UK*

Dr Laura Pajón is a lecturer at De Montfort University, Leicester, United Kingdom. Her research focuses on the response to serious and organised crimes, specifically on human trafficking crimes. She publishes and advises widely in areas related to the identification, investigation, and disruption of serious and organised criminality. She also conducts research on multi-agency responses to tackle human trafficking crimes. Laura collaborates with different police forces in areas related to the investigation and disruption of serious and organised criminality and multi-agency collaboration. In addition, she coordinates an anti-slavery multi-agency partnership aiming to respond to trafficking crimes by joining research and practice.

## The Micro-Geopolitics of Violent Non-State Actors

by *Fausto Carbajal Glass, Mexico*

Fausto Carbajal-Glass is a researcher on political risk and security. He holds a Master degree in War Studies from King's College London, UK, and a BA in International Relations from Universidad Iberoamericana, Mexico City. He has worked for the Mexican government, particularly for the Ministries of the Interior and Foreign Affairs. He is also a lecturer for the BA in Strategic Intelligence at Universidad Anáhuac Mexico, where he teaches the module of 'Prospective Planning' and 'Characteristics and Evolution of Organised Crime'. His analyses on the crime-conflict compound, the conflict-security-development nexus and local geopolitics have appeared in newspapers as well as academic and policy publications.

## Building Back Better in the Post-COVID-19 World: The role of Peacebuilding Researchers and Youth Peacebuilders in Nigeria and South Africa

by *Allwell Akhigbe, Nigeria*

Allwell Akhigbe is a Youth, Peace and Security (YPS) Scholar-Practitioner who champions youth peacebuilding across the globe. He has successfully completed a Masters' degree in Peace and Conflict Studies (2019) from the University of Ibadan, Nigeria. Allwell is also the Research Lead on the UNESCO Youth As Researcher (YAR) Global Action Team where he leads a global research on youth action during COVID-19 and a Research Consultant for the Better Evidence Project at George Mason University, USA, studying youth-led peacebuilding impact. His work has been published

by Routledge, UNESCO, South African Journal of Political Studies, Young African Leaders Journal of Development, and H-Borderlands.

## **Role of Universities in Ensuring Access to Justice for All: The Context of Bangladesh and Nepal**

*by Mostafa Hosain, Bangladesh*

Md. Mostafa Hosain is an Assistant Professor at the School of Law, Brac University, Bangladesh. He holds a LL.B from University of Dhaka, Bangladesh and a LL.M. followed by M.Phil. from South Asian University, India. Mr. Hosain pursued a Post Graduate Diploma in 'International law and Diplomacy' from Indian Academy of International Law. He is a Visiting Assistant Professor at Kathmandu Law School, Nepal and was a guest faculty at Indian Society of International Law. He has publication from globally reputed publishing houses and working experience as a Legal Expert in SDG project under the Ministry of Law, Justice and Parliamentary Affairs, Bangladesh.

# The International Association of Universities

## Higher Education and Research for Sustainable Development (HESD)



**Sustainable development** has been part of the strategic commitment of the International Association of Universities (IAU), *The Global Voice of Higher Education*, to improving higher education for 30 years. In 1993, the Association adopted the [IAU Kyoto Declaration on Sustainable Development](#) and reaffirmed its commitment to sustainable development in 2014 with the [IAU Iquitos Statement on Higher Education for Sustainable Development](#). IAU has been one of the strongest advocates for the role higher education has to play in sustainable development globally, including within international organisations, such as UNESCO in Paris, the UN in New York, and the UNU in Tokyo.

**Integrating sustainable development fully into higher education strategies** is one of IAU's four strategic priorities. The IAU HESD work (Higher Education and Research for Sustainable Development) is diverse and dynamic; in addition to monitoring developments and engaging in sustainability projects with and for its Members and partners, the IAU has developed a specialized IAU HESD portal, regularly conducts surveys on HESD-related issues and organises thematic events.

The Association was one of the Key Partners in UNESCO's Global Action Programme on Education for Sustainable Development (GAP ESD, 2014 – 2019) and is now part of the

follow-up programme – [ESD for 2030](#). Since 2019, IAU has taken an active part in the [UN High-Level Political Forum on Sustainable Development \(HLPF\)](#), one of the key mechanisms for monitoring implementation of the UN 2030 Agenda for Sustainable Development.

**The IAU Global HESD Cluster** is the flagship project in IAU's HESD work, an innovative network connecting higher education and the SDGs. The Cluster brings together **16 Lead Institutions and over 80 universities from around the world**. It fosters knowledge generation and expertise sharing on issues relating to all SDGs. **IAU leads the work on SDG 17, Partnerships for the Goals**. The Lead Institutions for each Cluster, working with up to 10 'satellite' institutions, engage with a particular SDG and are responsible for initiating concrete projects, while ensuring synergies among all goals. Furthermore, the Clusters promote the role and incomparable potential that HEIs have globally to help achieve the SDGs and Agenda 2030. HEIs engage with the SDGs in multiple ways, increasingly adopting a *whole institution approach*, by including sustainable development in all dimensions: education and teaching, research, community engagement, and campus initiatives.

Learn more here: <https://iau-aiu.net/HESD>



## United Nations Office on Drugs and Crime (UNODC) in brief

The mission of the United Nations Office on Drugs and Crime (UNODC) is to contribute to global peace and security, human rights and development by making the world safer from drugs, crime, corruption and terrorism by working for and with Member States to promote justice and the rule of law and build resilient societies.

Established in 1997, the mandates of UNODC include the areas related to transnational organized crime, criminal justice, countering corruption, drug control and terrorism. Because the scale of these problems is often too great for states to confront alone, UNODC offers practical assistance and encourages transnational approaches to action.

The Office is committed to supporting UN Member States in implementing the **2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals (SDGs)** at its core. The 2030 Agenda clearly recognizes that the rule of law and fair, effective and humane justice systems, as well as health-oriented responses to drug use, are both enablers for and part of sustainable development.

In order to efficiently achieve the SDGs and realize the Decade of Action, UNODC collaborates with a wide array of stakeholders, including academia. Engaging the academic world is necessary to inform UNODC's policy work with evidence-based knowledge and research focused on those areas within the crime prevention, criminal justice and overall rule of law domains that are at the core of UNODC mandate.

One great example of institutional and functional bridges built between UNODC and academia was the establishment of the **Education for Justice (E4J) initiative**, through which UNODC has stepped up its support to academia worldwide. E4J has co-created with over 600 academics a series of peer-reviewed university modules, aimed at supporting tertiary level educators, and academics in their efforts to transmit knowledge on the subject areas of crime prevention and criminal justice, anti-corruption, organized crime, trafficking in persons and smuggling of migrants, firearms, cybercrime, wildlife crime, counter-terrorism as well as integrity and ethics.

Learn more: <https://www.unodc.org/>



# Acknowledgements

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- **Hilligje van't Land**, IAU Secretary General
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The **International Association of Universities (IAU)** is an Implementing Partner for the **United Nations Office on Drugs and Crime (UNODC)**, and the two organisations have a longstanding partnership through which they stress the important role higher education can play in promoting and enhancing the rule of law and sustainable development, in particular SDG 16.

Within the framework of the UNODC *Education for Justice (E4J)* initiative the two organisations developed a Research Grant programme, encouraging young scholars to carry out research linked to *SDG 16: Peace, Justice and Strong Institutions*.

Thirteen scholars from twelve countries, respecting both regional and gender balance, were selected for the grants, and their papers are organized under three broad themes, each one providing different perspectives on how research, education and overall engagement with SDG 16 can foster sustainability:

**I. INEQUALITY, SUSTAINABLE RECOVERY AND SDG 16**

**II. ENVIRONMENT, LEGAL FRAMEWORKS AND SDG 16**

**III. CHALLENGES TO PEACE AND SUSTAINABLE SOCIETIES AND SDG 16**

Through strong and innovative collaboration, and dynamics in higher education and between higher education and society in general, we can address the global challenges identified in the **United Nations Agenda 2030 and the 17 Sustainable Development Goals (SDGs)** and build a more sustainable future together.

**More Information & Contact:**



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