

CHAPTER I

Introduction

In 2015, the United Nations Sustainable Development Summit adopted the 2030 Agenda for Sustainable Development – a plan of action for people, planet, and prosperity, that seeks to strengthen universal peace in larger freedom and eradicate poverty in all its forms and dimensions, as stated in the opening sentences of its preamble. To achieve this, the summit formulated 17 Sustainable Development Goals (SDGs).

The SDGs were an attempt to revolutionize the understanding of development, to create a framework that was more fit for purpose to tackle the daunting challenges a global society faces. It is becoming increasingly evident that the world is rapidly breaching the capacity of earth systems to support life and facing growing inequalities at all levels (Caballero 2019: 138).

The governments that have signed onto the 2030 Agenda certainly exude confidence about the impending positive impact of their ‘historic decision’ (2030 Agenda 2015: 6), especially in relation to realizing human rights. The commitment to human rights is expressed already in the preamble and is then reinforced by several assurances to the effect that the new text is ‘grounded in’ the Universal Declaration of Human Rights, in international human rights treaties, and ‘other instruments such as the Declaration on the Right to Development’ (2030 Agenda 2015, 8). Historically, human rights and development have had two different trajectories, rarely communicating clearly and systematically with each other. Such a commitment to human rights in the 2030 Agenda was very welcome. It has also meant that human rights actors and mechanisms must be closely engaged in the realization of the 17 SDGs.

Like their predecessors (Millennium Development Goals – MDGs), the SDGs are a statement of aspirations: a voluntary agreement rather than a binding treaty (Pogge & Sengupta 2016: 1). While this presents a drawback insofar as states may be more tempted to skirt their commitments, it also presents an opportunity insofar as states may be willing to adopt a more ambitious agenda when this agenda imposes on them no legally binding obligations (Pogge & Sengupta 2016: 1). Indeed,

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the 2030 Agenda comes with a great promise – to eradicate poverty and hunger, to strengthen universal peace in larger freedom, and to protect the human rights of all.

The 2030 Agenda has established the High-level Political Forum on Sustainable Development (HLPF) as the central United Nations platform for the follow-up and review of the Agenda and the SDGs. While being needed and valued as a global reporting and coordination forum, HLPF has a modest influence vis-à-vis the implementation of the SDGs. The global goals are meant to be implemented on the national level by the national authorities. With states' history of successful elusion from even strong legal obligations, many observers have rightly been worried about how they would approach the fulfilment of a voluntary pledge.

In view of this challenge, recent academic research – and to a greater extent, grey policy literature – has started to address the related questions 'Through what processes can SDG accountability be assured at the national level?', 'By which standards can SDG action be assessed?', and 'With what effect can governments be held to account for their SDG-related commitments?' (Karlsson-Vinkhuyzen, Dahl & Persson 2018). This emerging literature has identified parliaments and independent oversight agencies, such as ombuds institutions and other forms of national human rights institutions (NHRIs), as essential cornerstones for national SDG accountability regimes (Breuer & Leininger 2021: 5). However, these studies have not gone far enough in explaining how ombuds institutions and other forms of NHRIs could and should contribute to achieving the SDGs (particularly given the strong emphasis on human rights in the 2030 Agenda) and making governments accountable. This research aims to help fill in this literature gap, by concentrating on SDG 16. The focus is on this particular goal, because it is devoted to promoting peaceful and inclusive societies for sustainable development, providing access to justice for all, and building effective, accountable, and inclusive institutions at all levels. In other words, it is aligned the most with the mandate and functions of ombuds institutions.

Another reason for the focus on SDG 16 is the attempt of this study to add the security sector into the equation, when and where possible. This will be done by connecting the SDG framework with the concept of security sector governance (SSG) and security sector reform (SSR), and the principles that guide them.

SSG includes both 'the formal and informal influences of all the structures, institutions and actors involved in the provision, management and oversight of security and justice at national and local levels' (Myrntinen 2019: 13). SSR, as defined by the UN (UN DPKO 2012: 2), is a process of assessment, review, and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law.

SSG is the application of these principles of good governance to security provision in a particular national setting (DCAF 2015). Looking at the conceptual relationship between SSG and SSR, following Myrntinen (2019: 14), good SSG could be regarded as 'the goal,' whereas 'SSR, or security sector transformation, is a way of getting there.' If there are problems with the administration of SSG in a particular country in a way that its security sector 'is not inclusive, is partial and corrupt, unresponsive, incoherent, ineffective and inefficient and/or unaccountable to the public' (Schnabel 2012: 53), that country's security sector is in need of reform (Dursun-Özkanca 2021: 12).

SSR can be described as a road to achieving good SSG, which shares the goal of having effective, accountable, and inclusive institutions with SDG 16. Such a goal applies to both security providers and security overseers. As ombuds institutions are understood as important elements of the security sector oversight system (DCAF 2019; IPU & DCAF, 2003: 89; United Nations 2012: 98), this research seeks to provide additional insights on how this nexus between SSG and SDG 16 plays out in practice.

The central assumption of this study is that ombuds institutions can contribute to achieving all SDG 16 targets. With their unique position in-between three branches of power, with the mandate

to oversee public administration (including the security sector) and protect human rights, ombuds institutions are well-placed to play an important role in national efforts to fulfil the SDGs.

However, the key argument of this research is that their main role should be to support and contribute, not to lead. Achieving the SDGs calls for a strong web of institutions and partnerships. Ombuds institutions (and other forms of national human rights institutions; NHRIs) are central national human rights actors but must not be expected to lead the realization of human rights-based SDGs. They cannot be the only game in town, because they cannot secure effective remedies for citizens who claim that their rights have been violated on their own (Glušac 2018b: 62). Successful partnerships are crucial, as NHRIs can be neither a panacea for all human rights-related problems nor a replacement for other mechanisms of control and protection (Glušac 2017: 67). Their *raison d'être* can only be fulfilled in synergy with other functional stakeholders (Glušac 2017: 67).

Some governments downplay, ignore, or violate human rights. In such contexts, ombuds institutions could be inspired to step in and take the lead, trying to compensate the lack or negative consequences of government actions. While this can bring some short-term success, in long run it is not sustainable. Ombuds institutions cannot achieve human rights-focused SDGs on their own. They should push the government to perform. The same applies to their role in security sector oversight. Ombuds institutions and other types of NHRIs should be there to advise their governments, correct their actions, and advance both legislation and practice. To demonstrate how this could be done in practice, the research explores the role of ombuds institutions in achieving SDG 16 by looking at both implementation and accountability. The former is captured under the title of 'leaving no one behind' and the latter under 'leaving no one unaccountable'.

Leaving no one behind is a central *credo* of the 2030 Agenda. It is highly relevant for SDG 16, as well as SSG/R, due to the centrality of the principles of responsiveness and participation, which posit that the security sector should respond to the security needs of all, and conversely, all should be involved, to the extent possible, in the development of security policies.

Where do people face disadvantages due to ineffective, unjust, unaccountable, or unresponsive national authorities? Who is affected by inequitable, inadequate, or unjust laws, policies, processes, or budgets? Who is less able or unable to gain influence or participate meaningfully in the decisions that impact them? These questions are at the very heart of SDG 16, which stresses the need for strong institutions that are built on respect for human rights, effective rule of law, and good governance at all levels. It is arguably one of the most ambitious goals in the 2030 Agenda because it is not simply a goal by itself but also an enabler for the achievement of other goals. Nonetheless, as it will be seen, many SDG 16 targets are rather vague, and limited guidance exists on how to measure and achieve them, especially in fragile contexts. To that end, this study aims to provide some additional guidance to ombuds institutions and other actors.

As Robert Putnam (1993: 63) notes, 'Who governs?' and 'How well?' are the two most basic questions of political science. Translated to the language of the 2030 Agenda, one could ask 'Who implements?' and 'How well?' A negative response to the second question brings the issue of accountability into the picture. As already alluded to, the issue of accountability is highly relevant for the implementation of the SDGs. This study attests that for a number of the SDG 16 targets, ombuds institutions should primarily serve as accountability mechanisms. They should work with, pressure, and make public administration accountable, in cases when the administration as the primary duty-bearer fails to protect the rights of citizens and when their actions fall short of the standards needed to achieve the SDGs. This particularly applies to security sector institutions, considering their actions, particularly of the police and security services, may interfere with human rights in an unparalleled way, as they are authorized to use special measures to penetrate deep into the private lives of citizens (Glušac 2018b).

There is an additional reason why ombuds institutions are so relevant for the SDGs. They contribute to making the entire endeavor more locally owned. Local ownership is a central concept

for both SSR and development. The concept has its roots in the development circles that emphasized the importance of empowering local communities and encouraging local participation, while at the same time it is widely regarded as the bedrock and main precondition for successful SSR (Gordon 2014). Being national state authorities with rich experience in applying international standards to the national (local) context, ombuds institutions could serve as a social fibre of the SSR and SDG efforts. In the right environment, they could help build trust among international, national, and local actors, liaising between them when frictions occur, and making sure that all social forces are included in the process, and that their needs and interests are duly considered.

Before presenting the road map of the study, one note on terminology. This book is about ombuds institutions. Still, not all ombuds institutions contain the term ‘ombuds’ or ‘ombudsman’ in their official title, despite their common structural and functional characteristics. For instance, in Francophone Africa, many countries have ombuds institutions but formally call them ‘*mediateur*’, while Botswana and South Africa use the term ‘Public Protector.’ The majority of other African states use the term ‘ombudsman.’ Similarly, ombuds institutions in Europe have different names, e.g., People’s Advocate (Albania), Parliamentary Advocate (Moldavia), Public Defender of Rights (Czechia), Defender of People (Spain), Justice Provider (Portugal), Chancellor of Justice (Estonia, Finland), Commissioner for Human Rights (Russia, Azerbaijan), Human Rights Defender (Armenia), etc. These different designations do not imply substantial differentiation but usually emanate from the traditions of the particular legal terminology of a state. A good example of this variety of names is the official translation of the European Ombudsman, the ombuds institution of the European Union: *Médiateur européen* (French); *Defensor del Pueblo Europeo* (Spanish); *Provedor de Justiça Europeu* (Portuguese); *Mediatore europeo* (Italian) (Glušac 2019c: 5).

The term ‘ombudsman’ is gender-neutral, as the ‘man’ suffix itself is gender-neutral in original Swedish. That is, it applies correctly whether the ombudsman is male or female. However, many states expressly provide a notation for female incumbents (‘Ombudswoman,’ ‘Ombudsfrau,’ ‘*Médiatrice*’). To avoid ambiguity and overcomplicated language, this research uses the gender-free term ‘ombuds institutions’ throughout. It uses ‘ombudsperson’ when referring to an individual mandate-holder. Such a decision also reaffirms the function-centered approach to ombuds institutions taken by in this research.

The study is organized as follows. It starts with defining ombuds institutions, their key features, mandate, and functions (Chapter 2). This chapter then elaborates on the concepts of good governance and good security sector governance, with a focus on the principles of good (security sector) governance, before connecting good governance with security, human rights, and development. The study then turns to explaining the nature of ombuds institutions as security sector and development actors, before presenting the original methodological framework for analyzing their role in achieving SDG 16 (Chapter 3). In the next two chapters, this framework is applied empirically. They start with providing more details on the logic and background of ‘leaving no one behind’ (Chapter 4) and ‘leaving no one unaccountable’ (Chapter 5), respectively, before going target by target, demonstrating the potential role of ombuds institutions in achieving them. The concluding chapter (6) provides an overview of the study and its main findings and brings a set of recommendations to different actors on how to support ombuds institutions.