

# **Embracing the Rule of Law for Sustainability**

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**Kariuki Muigua**

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## *Embracing the Rule of Law for Sustainability*

### **Embracing the Rule of Law for Sustainability**

**Kariuki Muigua\***

#### **Abstract**

*The rule of law envisages an ideal society where no one is above the law, everyone is treated equally under the law, everyone is held accountable to the same laws, there are clear and fair processes for enforcing laws, there is an independent judiciary, and human rights are guaranteed for all persons. It has been identified as an essential component of good governance and Sustainable Development. This paper critically discusses the role of the rule of law in Sustainable Development. It posits that the rule of law is a critical enabler of Sustainable Development. The paper highlights ways through which the rule of law can foster Sustainable Development. It also examines some of the challenges facing the rule of law in the quest towards Sustainable Development. The paper further proposes reforms towards embracing the rule of law for sustainability.*

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### **1.0 Introduction**

The rule of law has been defined as a principle of governance in which all persons, institutions and entities, both public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards<sup>1</sup>. It has been asserted that the rule of law requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency<sup>2</sup>. The rule of law has also been defined as set of principles, or ideals, for ensuring an orderly and just society<sup>3</sup>. The rule of law envisages an ideal society where no one is above the law, everyone is treated equally under the law, everyone is held accountable to the same laws, there are clear and fair processes for enforcing laws, there is an independent judiciary, and human rights are guaranteed for all persons<sup>4</sup>.

It has been pointed out that the rule of law comprises a number of principles of a formal and procedural character, addressing the way in which a society is governed<sup>5</sup>. The formal principles entail the generality, clarity, publicity, stability, and prospectivity of the norms that govern a society<sup>6</sup>. The procedural principles on the other hand entail the processes by which these norms are administered, and the institutions like courts and an independent judiciary that their administration requires<sup>7</sup>. In addition, it has also been

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<sup>1</sup> United Nations., 'What is the Rule of Law.' Available at <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> (Accessed on 06/01/2024)

<sup>2</sup> Ibid

<sup>3</sup> American Bar Association., 'Rule of Law.' Available at [https://www.americanbar.org/groups/public\\_education/resources/rule-of-law/](https://www.americanbar.org/groups/public_education/resources/rule-of-law/) (Accessed on 06/01/2024)

<sup>4</sup> Ibid

<sup>5</sup> Waldron. J., 'The Rule of Law.' Available at <https://plato.stanford.edu/Entries/rule-of-law/> (Accessed on 06/01/2024)

<sup>6</sup> Ibid

<sup>7</sup> Ibid

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argued that the rule of law also comprises certain substantive ideals like a presumption of liberty and respect for private property rights<sup>8</sup>. Respect for the rule of law in a society is characterized by certain factors which include separation of powers in the executive, legislature, and judiciary; regular, free, and fair elections; an independent and impartial judiciary; free and independent media institutions; and equality of the people before the law<sup>9</sup>.

The International Development Law Organization (IDLO) posits that the rule of law is an enabler of justice and development<sup>10</sup>. In addition, IDLO asserts that the rule of law is inseparable from equality, from access to justice and education, from access to health and the protection of the most vulnerable<sup>11</sup>. It also points out that the rule of law is crucial for the viability of communities and nations, and for the environment, that sustains them<sup>12</sup>. On this basis, it has been argued that the rule of law is an essential component of good governance and Sustainable Development<sup>13</sup>.

This paper critically discusses the role of the rule of law in Sustainable Development. It posits that the rule of law is a critical enabler of Sustainable Development. The paper highlights ways through which the rule of law can foster Sustainable Development. It also examines some of the challenges facing the rule of law in the quest towards Sustainable Development. The paper further proposes reforms towards embracing the rule of law for sustainability.

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<sup>8</sup> Muigua. K., 'Rule of Law Approach for Inclusive Participation in Environmental, Social, and Governance (ESG) Accountability Mechanisms for Climate-Resilient Responses.' Available at <http://kmco.co.ke/wp-content/uploads/2023/09/Rule-of-Law-Approach-for-Inclusive-Participation-in-Environmental-Social-and-Governance-ESG-Accountability-Mechanisms-for-Climat-ResilientResponses-1.pdf> (Accessed on 06/01/2024)

<sup>9</sup> International Commission of Jurists., 'Democratic Governance & Rule of Law.' Available at <https://icjkenya.org/what-we-do/democratic-governance-rule-of-law/> (Accessed on 06/01/2024)

<sup>10</sup> International Development Law Organization (IDLO)., 'Rule of Law.' Available at <https://www.idlo.int/what-we-do/rule-law> (Accessed on 06/01/2024)

<sup>11</sup> Ibid

<sup>12</sup> Ibid

<sup>13</sup> Centre for Strategic & International Studies., 'The Rule of Law and Sustainable Development.' Available at <https://www.csis.org/analysis/rule-law-and-sustainable-development> (Accessed on 06/01/2024)

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### **2.0 The Rule of Law and Sustainable Development**

The rule of law is central to the achievement of Sustainable Development. It has rightly been asserted that the idea of Sustainable Development is, at its core, a call for all countries to address imbalances and injustices created by global problems including extreme poverty, growing inequalities and environmental damage<sup>14</sup>. Sustainable Development can therefore be understood as a moral concept that seeks to define a fair and just development which are ideals embedded in the concept of the rule of law<sup>15</sup>. It is driven by a conviction that the present generation must not deprive future generations of their right to thriving ecosystems, robust economies and stable societies<sup>16</sup>. As a result, it has been argued that Sustainable Development advocates for intra-generational justice: a demand that the present generation address the needs of the poor and marginalized today, as a matter of equity and moral certainty<sup>17</sup>. Therefore, Sustainable Development provides an ethical framework that could enable national societies, and indeed the global human society, to respond to emerging environmental and developmental problems in an equitable manner within the confines of the rule of law<sup>18</sup>.

The concept of Sustainable Development seeks to strike a balance between various facets of development by fostering environmental protection, economic development and social progress<sup>19</sup>. It has been argued that the rule of law is relevant to all three dimensions of sustainable development: economic, social and environmental<sup>20</sup>. For example, by providing stable and transparent legal regimes, the rule of law encourages economic

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<sup>14</sup> International Development Law Organization., 'Doing Justice to Sustainable Development: Integrating the Rule of Law into The Post-2015 Development Agenda.' Available at <https://www.idlo.int/sites/default/files/pdfs/publications/Doing%20Justice%20to%20Sustainable%20Development.pdf> (Accessed on 06/01/2023)

<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> Ibid

<sup>18</sup> Ibid

<sup>19</sup> Fitzmaurice. M., 'The Principle of Sustainable Development in International Development Law.' *International Sustainable Development Law.*, Vol 1.

<sup>20</sup> International Development Law Organization., 'IDLO and the United Nations' 2030 Agenda for Sustainable Development.' Available at <https://www.idlo.int/what-we-do/rule-of-law/2030-agenda#:~:text=The%20rule%20of%20law%20is,of%20law%20encourages%20economic%20development.> (Accessed on 06/01/2024)

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development<sup>21</sup>. In addition, by ensuring equal opportunity and equitable access to basic services, the rule of law promotes social development<sup>22</sup>. Further, by strengthening the laws to protect the environment and ensure proper management of natural resources, the rule of law ensures environmental sustainability<sup>23</sup>.

According to the United Nations, the ideas of the rule of law and development are strongly linked and mutually reinforcing, that the advancement of the rule of law at the local, national, continental and international levels is essential for sustained and inclusive economic growth, Sustainable Development, the eradication of poverty and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law<sup>24</sup>. The rule of law fosters social progress by creating an environment for providing sustainable livelihoods and eradicating poverty<sup>25</sup>. In addition, the United Nations asserts that the rule of law fosters development through strengthening the voices of individuals and communities, by providing access to justice, ensuring that due processes are followed and establishing remedies for the violation of human rights and freedoms<sup>26</sup>.

In addition, it has been argued that the rule of law, properly understood and implemented, advances the three pillars of sustainable development – economic, social, and environmental – and reinforces their interlinkage through legal and institutional reforms, protection of fundamental rights and freedoms, ensuring access to justice, and fostering legal empowerment strategies<sup>27</sup>. As a result, it has been argued that the rule of law is a direct avenue toward Sustainable Development and the achievement of the Sustainable Development Goals (SDGs), and a bedrock of progress, justice and a better

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<sup>21</sup> Ibid

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> United Nations., 'Rule of Law and Development.' Available at <https://www.un.org/ruleoflaw/rule-of-law-and-development/> (Accessed on 06/01/2023)

<sup>25</sup> Ibid

<sup>26</sup> Ibid

<sup>27</sup> Khan. I., 'Shifting the Paradigm: Rule of Law and the 2030 Agenda for Sustainable Development.' Available at [https://elibrary.worldbank.org/doi/10.1596/978-1-4648-0545-5\\_ch11](https://elibrary.worldbank.org/doi/10.1596/978-1-4648-0545-5_ch11) (Accessed on 06/01/2023)

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functioning society<sup>28</sup>. The rule of law is therefore central to the attainment of Sustainable Development since it recognizes that the balancing of competing inter-generational and intra-generational interests, the eradication of poverty today and the preservation of the planet for the future requires transparent, inclusively developed, rule-based processes and mechanisms that can ensure equity for all persons<sup>29</sup>.

### **3.0 Embracing the Rule of Law for Sustainability: Progress and Challenges**

There have been global, continental and national developments towards embracing the rule of law for sustainability.

The need to embrace the rule of law for sustainability at the global level was affirmed at the 2005 World Summit<sup>30</sup>. The outcome of the World Summit acknowledges that good governance and *the rule of law* at the national and international levels are essential for sustained economic growth, Sustainable Development and the eradication of poverty and hunger(Emphasis added)<sup>31</sup>. It further states that in order to achieve Sustainable Development, there is need for universal adherence to and implementation of the rule of law at both the national and international levels<sup>32</sup>. It also requires countries to cooperate in order to strengthen activities to promote the rule of law, including through technical assistance and capacity-building in order to achieve Sustainable Development<sup>33</sup>.

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<sup>28</sup> United Nations Office on Drugs and Crime., 'Rule of Law.' Available at <https://www.act4ruleoflaw.org/en/news/development> (Accessed on 06/01/2023)

<sup>29</sup> Khan. I., 'How Can the Rule of Law Advance Sustainable Development in a Troubled and Turbulent World?' Available at <https://www.cisd.org/wp-content/uploads/2018/05/How-Can-the-Rule-of-Law-Advance-Sustainable-Development-in-a-Troubled-and-Turbulent-World-I-Khan.pdf> (Accessed on 06/01/2024)

<sup>30</sup> United Nations General Assembly., 'Resolution Adopted by the General Assembly on 16 September 2005: 60/1. 2005 World Summit Outcome., A/RES/60/1.' Available at [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_60\\_1.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf) (Accessed on 07/01/2023)

<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Ibid



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The importance of the rule of law in Sustainable Development was also upheld in the outcome document of the *Rio +20 Conference*<sup>34</sup>. The document reaffirms the importance of the rule of law to just and democratic societies for development<sup>35</sup>. The document acknowledges that democracy, good governance and the *rule of law*, at the national and international levels, as well as an enabling environment, are essential for Sustainable Development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger<sup>36</sup>. The document requires all countries to embrace the rule of law as a means of implementing the Sustainable Development agenda<sup>37</sup>.

The rule of law is also embraced as an important component of Sustainable Development in the *United Nation's 2030 Agenda for Sustainable Development*<sup>38</sup>. SDG 16 seeks to foster peace, justice and strong institutions and calls for the promotion of peaceful and inclusive societies for Sustainable Development, the provision of access to justice for all and for the building of effective, accountable and inclusive institutions at all levels<sup>39</sup>. Among the targets under SDG 16 is promoting the rule of law at the national and international levels and ensuring equal access to justice for all<sup>40</sup>. It has been argued that SDG 16 is an enabler for all other SDGs since the rule of law is a necessary prerequisite to translate commitments, such as the SDGs as well as other global, regional or national development goals into reality. <sup>41</sup> The rule of law ensures that governance is not arbitrary, opaque,

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<sup>34</sup> United Nations General Assembly., 'United Nations Conference on Sustainable Development': Rio de Janeiro, Brazil 20-22 June 2012.' A/CONF.216/L.1., Available at <https://wedocs.unep.org/bitstream/handle/20.500.11822/13662/N1238164.pdf?sequence=1&%3BisAllowed=> (Accessed on 07/01/2023)

<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Ibid

<sup>38</sup> United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 07/01/2023)

<sup>39</sup> Ibid, SDG 16

<sup>40</sup> Ibid, SDG 16.3

<sup>41</sup> United Nations Office on Drugs and Crime., 'Rule of Law.' Op Cit

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unpredictable or weak<sup>42</sup>. Rather, it calls for transparency, accountability, effectiveness and inclusiveness in all public processes and efforts, as well as effective regulation in the private sector<sup>43</sup>. In addition, it ensures respect for fundamental rights and freedoms, and guarantees that no actions in society are taken at the expense of the human rights of the people that live in it, and that justice is available to all persons<sup>44</sup>. Actualizing SDG 16 is therefore necessary in strengthening the rule of law at the global, continental and national levels for sustainability.

At the continental level, *Agenda 2063*<sup>45</sup> acknowledges the need to embrace the rule of law for Sustainable Development in Africa. Agenda 2063 seeks to achieve the aspiration of a continent characterized by good governance, respect for human rights, justice and the rule of law<sup>46</sup>. It further states that realizing the ideal of a continent based on good governance, democracy, and respect for human rights, justice and the *rule of law* are the necessary pre-conditions for a peaceful and conflict-free Africa towards sustainability<sup>47</sup>. Agenda 2063 seeks to strengthen respect for human rights and adherence to the rule of law in order to achieve Sustainable Development in Africa<sup>48</sup>. Actualizing Agenda 2063 can strengthen the rule of law for sustainability in Africa.

Further, at the national level, the Constitution of Kenya embraces the rule of law as one of the national values and principles of governance<sup>49</sup>. The Constitution further enshrines other values and principles that are integral in fostering adherence to the rule of law including human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized, good governance, integrity,

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<sup>42</sup> Ibid

<sup>43</sup> Ibid

<sup>44</sup> Ibid

<sup>45</sup> Africa Union., 'Agenda 2063: The Africa we Want.' Available at [https://au.int/sites/default/files/documents/33126-doc-framework\\_document\\_book.pdf](https://au.int/sites/default/files/documents/33126-doc-framework_document_book.pdf) (Accessed on 07/01/2024)

<sup>46</sup> Ibid

<sup>47</sup> Ibid

<sup>48</sup> Ibid

<sup>49</sup> Constitution of Kenya., 2010., Article 10 (2) (a), Government Printer, Nairobi

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transparency and accountability<sup>50</sup>. The Constitution further enshrines Sustainable Development as one of the values and principles that is to be fostered alongside other values and principles including the rule of law<sup>51</sup>. Embracing the rule of law is thus vital for sustainability in Kenya.

As a result of the foregoing efforts, there has been progress towards embracing the rule of law for sustainability across all spheres of Sustainable Development including economic development, social progress and environmental protection<sup>52</sup>. It has been argued that as a driver of inclusive economic development, the rule of law enables the design and implementation of legal and policy frameworks that are fair, transparent, coherent, and supported by predictable enforcement mechanisms<sup>53</sup>. It has also been argued that there are strong correlations between economic development in aspects such as incomes and rule of law<sup>54</sup>. For example, most of the Organisation for Economic Cooperation and Development (OECD) countries which have a higher rule of law index have higher incomes in comparison with the countries with a lower ranking in the rule of law index which are mostly from Sub-Saharan Africa<sup>55</sup>. It is therefore evident that how a country adheres to the rule of law predetermines the constancy and predictability of the economy<sup>56</sup>.

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<sup>50</sup> Ibid, Article 10

<sup>51</sup> Ibid, Article 10 (2) (d)

<sup>52</sup> International Development Law Organization, 'IDLO and the United Nations' 2030 Agenda for Sustainable Development.' Op Cit

<sup>53</sup> International Development Law Organization, 'A Rule of Law Approach to Inclusive Economic Development: Supporting Fair and Equitable International Investment Agreements in Least Developed Countries.' Available at <https://www.idlo.int/publications/rule-law-approach-inclusive-economic-development-supporting-fair-and-equitable#:~:text=About%20This%20Publication%3A,supported%20by%20predictable%20enforcement%20mechanisms>. (Accessed on 07/01/2023)

<sup>54</sup> Wa-Kyendo. E., & Kemboi. L., 'Rule of Law and Economic Freedoms as the Key to Improve National Welfare.' Available at <https://ieakenya.or.ke/blog/rule-of-law-and-economic-freedoms-as-the-key-to-improve-national-welfare/#:~:text=The%20rule%20of%20law%20is%20part%20of%20the%20Sustainable%20Development,at%20all%20levels%5B2%5D>. (Accessed on 07/01/2023)

<sup>55</sup> Ibid

<sup>56</sup> Ibid

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In addition, in terms of social progress it has been observed that the security of livelihoods, shelter, tenure and contracts can enable and empower the poor to defend themselves against violations of their rights<sup>57</sup>. In addition, it has been asserted that improved security of tenure for land and property can make a critical contribution to ensuring social and economic progress in rural and urban settings, supporting poverty reduction and furthering gender equality and peace and security<sup>58</sup>. Embracing the rule of law can therefore foster social sustainability.

In addition, there has been progress towards embracing environmental rule of law. This progress is evidenced through the adoption of treaties, conventions and other legal and regulatory instruments geared towards promoting environmental sustainability and Sustainable Development, in general<sup>59</sup>. Among the notable instruments include the *Rio Declaration on Environment and Development*<sup>60</sup> which seeks to balance the interests of states in exploiting their natural resources for development and environmental conservation with the aim of achieving Sustainable Development. The Rio Declaration upholds key environmental principles that are vital in strengthening environmental rule of law including the principle of inter and intra generational equity, the principle of public participation, the precautionary principle and the principle of international cooperation<sup>61</sup>. At the national level, the Constitution of Kenya recognizes the right to a clean and healthy environment as a fundamental human right<sup>62</sup>. The Constitution further stipulates several obligations by the state in respect of the environment including the obligation to ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the

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<sup>57</sup> United Nations., 'Rule of Law and Development.' Op Cit

<sup>58</sup> Ibid

<sup>59</sup> United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions.' Available at [https://wedocs.unep.org/bitstream/handle/20.500.11822/43943/Environmental\\_rule\\_of\\_law\\_progress.pdf?sequence=3](https://wedocs.unep.org/bitstream/handle/20.500.11822/43943/Environmental_rule_of_law_progress.pdf?sequence=3) (Accessed on 07/01/2023)

<sup>60</sup> United Nations General Assembly., 'Report of the United Nations Conference on Environment and Development: Rio Declaration on Environment and Development.' A/CONF. 151/26 (Vol.1)

<sup>61</sup> Ibid

<sup>62</sup> Constitution of Kenya, 2010., Article 42., Government Printer, Nairobi

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accruing benefits, the need to encourage public participation in the management, protection and conservation of the environment, the obligation to protect genetic resources and biological diversity and the obligation to eliminate processes and activities that are likely to endanger the environment<sup>63</sup>. In addition, the *Environmental Management and Co-ordination Act (EMCA)*<sup>64</sup> establishes the legal and institutional framework for the management of the environment in Kenya. The Act upholds the right of every Kenyan to a clean and healthy environment and sets out various measures towards upholding this right including environmental planning, protection and conservation of the environment, Environmental Impact Assessment, Environmental Audit and Monitoring, environmental restoration and conservation orders and enforcement of environmental rights through courts and tribunals<sup>65</sup>. It also establishes the National Environment Management Authority which has the mandate to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment<sup>66</sup>. Implementing EMCA is therefore vital in embracing environmental rule of law for sustainability in Kenya.

Despite these efforts, it has been pointed out that advancing the rule of law for sustainability faces several challenges including a culture of non-compliance with laws in some countries, poor implementation mechanisms, bad governance, and weak legal and institutional structures<sup>67</sup>. It is imperative to address these among other challenges in order to effectively embrace the rule of law for sustainability.

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<sup>63</sup> Ibid, Article 69

<sup>64</sup> Environmental Management and Co-ordination Act., No. 8 of 1999, Government Printer, Nairobi

<sup>65</sup> Ibid

<sup>66</sup> Ibid, S 7 & 9

<sup>67</sup> United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions.' Op Cit

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### **4.0 Way Forward**

It has been pointed out that in order for the rule of law to further Sustainable Development outcomes, it must ensure protection for all human rights, including economic, social and cultural rights and the right to development<sup>68</sup>. It has been argued that the rule of law is an element not only for economic growth, but also for environment sustainability and social justice<sup>69</sup>. One of the key ways of embracing the rule of sustainability is by enacting and implementing clear, strict, enforceable, and effective laws, regulations, and policies that are efficiently administered through fair and inclusive processes to in order to foster economic development, social justice and achieve the highest standards of environmental quality; and respect for human rights, including the right to a safe, clean, healthy, and sustainable environment<sup>70</sup>.

It is also imperative to build strong, inclusive and accountable institutions including the judiciary in order to embrace the rule of law for sustainability<sup>71</sup>. SDG 16 calls for the promotion of peaceful and inclusive societies for Sustainable Development, the provision of access to justice for all and for the building of effective, accountable and inclusive institutions at all levels<sup>72</sup>. It has been argued that strong, inclusive and accountable state institutions, as envisaged in SDG 16, are essential to the building of public trust and the promotion of the rule of law for sustainability<sup>73</sup>. For example a strong, independent and accountable judiciary can advance the rule of law for sustainability by ensuring a more effective and responsive justice system that promotes a culture of respect for laws and which increases access to justice for all, particularly population groups who are

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<sup>68</sup> United Nations., 'Rule of Law and Development.' Op Cit

<sup>69</sup> Leogrande. A., 'The Rule of Law in the ESG Framework in the World Economy.' Available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4355016](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4355016) (Accessed on 07/01/2023)

<sup>70</sup> Ibid

<sup>71</sup> United Nations Office on Drugs and Crime., 'Rule of Law.' Op Cit

<sup>72</sup> United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1.,' Op Cit

<sup>73</sup> United Nations Office on Drugs and Crime., 'Rule of Law.' Op Cit

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marginalized and disadvantaged<sup>74</sup>. Building strong, inclusive and accountable institutions is therefore necessary in order to embrace the rule of law for sustainability.

In addition, it is necessary for countries to foster a culture of respect for laws by all entities including the state, state entities, the private sector and the public in order to embrace the rule of law for sustainability<sup>75</sup>. It has been observed that respect for the rule of law and property rights and the pursuit of appropriate policy and regulatory frameworks can foster economic development by encouraging business formation, including entrepreneurship, and contribute to poverty eradication<sup>76</sup>. In addition, improved and respect for security of tenure for land and property can make a critical contribution to ensuring social and economic progress in rural and urban settings, supporting poverty reduction and furthering gender equality and peace and security<sup>77</sup>. Further, it has been observed that ensuring the rule of law in the exploitation of natural resources is essential to ensuring inclusive and sustainable economic growth and development and in respecting, protecting and fulfilling human rights for all persons<sup>78</sup>.

Finally, there is need to foster capacity building in order to embrace the rule of law for sustainability<sup>79</sup>. Capacity building is critical to creating strong and accountable government institutions and agencies and continuously strengthening their effectiveness in advancing the rule of law for sustainability<sup>80</sup>. Capacity building can also enhance the ability of law and policy-makers to produce clear, effective and transparent primary and

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<sup>74</sup> United Nations Development Programme., 'Advancing Inclusive Decision-Making for Sustainable Development: Representation in the Judiciary through SDG 16.7.1c' Available at <https://www.undp.org/publications/advancing-inclusive-decision-making-sustainable-development-representation-judiciary-through-sdg-1671c> (Accessed on 07/01/2023)

<sup>75</sup> Michel. R., 'The Rule of Law and Sustainable Development.' Available at [https://www.researchgate.net/profile/James-Michel-3/publication/342881527\\_The\\_Rule\\_of\\_Law\\_and\\_Sustainable\\_Development/links/5f0b37be299bf1881616f125/The-Rule-of-Law-and-Sustainable-Development.pdf](https://www.researchgate.net/profile/James-Michel-3/publication/342881527_The_Rule_of_Law_and_Sustainable_Development/links/5f0b37be299bf1881616f125/The-Rule-of-Law-and-Sustainable-Development.pdf) (Accessed on 07/01/2024)

<sup>76</sup> United Nations Office on Drugs and Crime., 'Rule of Law.' Op Cit

<sup>77</sup> Ibid

<sup>78</sup> Ibid

<sup>79</sup> United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions.' Op Cit

<sup>80</sup> Ibid

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secondary legislation that promotes sustainability<sup>81</sup>. Capacity building is therefore important in embracing the rule of law for sustainability.

It is therefore necessary to uphold the foregoing among other measures in order to embrace the rule of law for sustainability.

### **5.0 Conclusion**

The rule of law is integral in promoting sustainability. It is relevant to all three dimensions of sustainable development: economic, social and environmental<sup>82</sup>. The importance of the rule of law in the Sustainable Development agenda is acknowledged under the 2030 Agenda for Sustainable Development whose targets under SDG 16 include promoting the rule of law at the national and international levels and ensuring equal access to justice for all<sup>83</sup>. Despite progress made towards promoting the rule of law at global, continental and national levels, advancing the rule of law for sustainability faces several challenges including a culture of non-compliance with laws in some countries, poor implementation mechanisms, bad governance, and weak legal and institutional structures<sup>84</sup>. It is imperative to address these challenges in order to embrace the rule of law for sustainability. This can be achieved through enacting and implementing clear, strict, enforceable, and effective laws, regulations, and policies that are efficiently administered through fair and inclusive processes<sup>85</sup>; building strong, inclusive and accountable institutions including the judiciary<sup>86</sup>; fostering a culture of respect for laws by all entities including the state, state entities, the private sector and the public<sup>87</sup>; and

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<sup>81</sup> Organisation for Economic Co-operation and Development., 'Capacity-Building Programme on Policy and Legislative Development.' Available at <https://www.oecd.org/mena/governance/eu-pa-rule-of-law/Agenda-Trainings-PA-March-2022.pdf> (Accessed on 07/01/2024)

<sup>82</sup> International Development Law Organization., 'IDLO and the United Nations' 2030 Agenda for Sustainable Development.' Op Cit

<sup>83</sup> United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., SDG 16.3

<sup>84</sup> United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions.' Op Cit

<sup>85</sup> United Nations., 'Rule of Law and Development.' Op Cit

<sup>86</sup> United Nations Office on Drugs and Crime., 'Rule of Law.' Op Cit

<sup>87</sup> Michel. R., 'The Rule of Law and Sustainable Development.' Op Cit



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fostering capacity building<sup>88</sup>. Embracing the rule of law for Sustainability is an ideal that needs to be pursued at all levels.

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<sup>88</sup> United Nations Environment Programme., 'Environmental Rule of Law: Tracking Progress and Charting Future Directions.' Op Cit

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