

# Hustling for Justice: An Analysis of Kenyan Justice Entrepreneurs' Role as New 'Agents of Change' for 'Sustainable Development'

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**Abstract:** Justice entrepreneurs are increasingly being proclaimed as 'game-changers' within global development discourses coalescing around 'sustainability'. With the leveraging of digital solutions for social service provision during the Covid pandemic and the inclusion of 'access to justice' on the international development agenda in 2015, market-based and digital justice innovations have gained relevance in the justice sector, particularly in the Global South. In conjunction with the formal recognition of formal and informal channels to justice in Kenya's justice system and the global development framework, market-based pathways to justice are said to be transformative, as they provide new solutions to defining, achieving, and creating access to justice on people's own terms.

Drawing on ongoing ethnographic and anthropological research in Kenya, this article critically explores the contested and dynamic terrain of justice entrepreneurship and innovation in Kenya. The paper analyses how, as new actors, justice entrepreneurs are themselves becoming 'responsibilized' and 'responsibilize' for defining and delivering justice by bringing closely entangled debates about humans as 'agents of change' and individuals' responsibilities for the Anthropocene and sustainable development into a conversation. In exploring these issues, the paper aims to reflect critically on the importance of a definition of justice for academics and practitioners and disagreements over it.

*[(access to) justice; Anthropocene; (social) entrepreneurship; Kenya; sustainable development]*

## Introduction

In an informal conversation in early 2022, a Kenyan justice entrepreneur told me that she feels as if 'justice' had been arbitrarily and carelessly included in the 'Sustainable Development Goals' (SDGs). Grimacing while stirring her tea, she started acting how she imagined the inclusion of justice in the SDG agenda to have gone. Assuming that development experts and strategists thought of it at the last moment, she gave her face a shocked expression. Then changing her facial expression to show determination, she continued narrating how they decided to make up for having forgotten justice by randomly including 'access to justice' in the SDGs without giving it a clear definition, instead making it 'people-centered'. Initially, she and other justice entrepreneurs treated this vaguely defined goal like a blank canvas to be filled with 'local' conceptualizations of justice by local justice actors. However, by that day on which we met in a café in the busy Central Business District of Nairobi, her initial enthusiasm for the vaguely de-

defined concept of justice had almost evaporated. The start-up, which she had co-founded with two colleagues roughly a year ago, was not doing well. Although they had hustled to bring their vision of (access to) justice to life and maintain it so as to offer 'alternative' entrepreneurial and digital solutions for 'filling the justice gap' in Kenya, they eventually decided not to continue with their start-up. However, as she was busy preparing to leave the country to try her luck by working in a different development sector abroad, she was still grappling with the shortcomings of the vague 'people-centered' justice concept on current international and national development agendas, which she saw as one of the reasons why justice solutions could never materialize. The sense of vagueness would eventually make it void and meaningless for those concerned.

The in-depth study of her and her co-founders' Kenya-based justice start-up forms the basis for this paper. It exemplifies the new phenomenon known as 'entrepreneurial justice' in the Global South. 'Entrepreneurial justice' is still a niche phenomenon in globally shifting justice regimes. Taking inspiration from Burgis-Kasthala's definition of it, entrepreneurial justice has emerged to fill a 'gap or weakness in existing public accountability fora' by creating a 'new private or privatized organization and/or approach that seeks to address (at least part of) this gap' (2019:1165).

This shift towards the recognition of privatized and market-based justice solutions in global development discourses is strongly influenced by the change towards 'entrepreneurial development' which emphasizes the notions of shared responsibility and opportunity for all in development efforts (Irani 2019). Furthermore, these new justice solutions have drawn on the adoption of a 'stand-alone goal' of access to justice in the SDG framework (Satterthwaite and Dhital 2019:96; Sandvik 2020). In line with a general shift away from 'top-down' development approaches (Fukuda-Parr 2016:46), the visionary and broad justice goal was defined as drawing on the 'people's own experience of justice' (Satterthwaite and Dhital 2019:96) to include formal recognition of judicial problems 'within and beyond law' (Brunnegger 2020). As Sandefur argues, if the justice system is understood as legal, 'the solution is more legal services. If the problem is unresolved justice problems, a wider range of options opens up' (Sandefur 2019:50). Furthermore, 'entrepreneurial justice' solutions also draw on a shifting public justice system in Kenya towards the formal (re-)inclusion of 'alternative justice solutions'. The adoption of this broadly conceptualized goal and the increased funding for justice gained further momentum with changes in the provision of social services during the Covid pandemic. That event, as a justice entrepreneur recounted in a conversation, was a 'golden moment' for founding a start-up offering innovative channels for access to justice. The conjunction of these changes unlocked new opportunities for individuals, but also responsibilities.

The inclusion of justice as a formally recognized 'stand-alone goal' is also closely bound up with the shift toward 'sustainability' as a complex concept closely entangled with the uptake of the concept of the Anthropocene in the public sphere (see, e.g., Chua and Fair 2019). 'Sustainability' in development has emphasized that the quandary of tackling environmental degradation equitably should be rethought by compre-

hensively taking into account environmental, economic, and social development for all (Bandola-Gill et al. 2022:4). Similarly, justice has been framed as an all-encompassing goal for development in delivering (social) justice and economic prosperity and in protecting the environment (UNDP 2020:121).<sup>1</sup>

Against the background of these multi-faceted changes both globally and locally, the article describes the highly diverse and multi-faceted phenomenon of ‘entrepreneurial justice’ in Kenya. This diversity is seen in terms not only of the professional backgrounds of the justice entrepreneurs – ranging from economics, law and design to IT – but also of the ‘justice solutions’ being offered. As pointed out above, the phenomenon draws on a justice category that is deliberately framed as broad and open-ended. The justice entrepreneurs created justice solutions such as access to legal knowledge and legal experts, digital platforms for reporting incidences of corruption, online dispute-resolution platforms, tracking tools to locate stolen motorbikes, or emergency service platforms connecting citizens to emergency care-providers. Despite their diversity, the justice entrepreneurs shared three characteristics: first, they offered solutions outside the ‘formal’ justice sector; second, they used digital technology, such as apps, chatbots, digital platforms, and social media; and third, their justice solutions were profit-oriented, aiming at being economically sustainable.

Starting from these shifts towards entrepreneurial and sustainable development and a change towards justice for all and by all, in this paper I analyse how the vague definition of justice in (international) development approaches, in conjunction with its increasing visibility both locally and globally, has allowed justice entrepreneurs to come into existence as a new group of agents and subjects of justice in Kenya. Building on the call for an etic definition of justice in this Special Issue, I am dwelling particularly on the question of whom to ‘responsibilize’. Zenker and Wolf refer to agents that ‘can be truly “responsibilized”’ are thus ‘capable agents of justice’ that ‘can be appealed to, made to feel responsible, enticed into action and thus ultimately also legitimately held responsible for the injustices that persist’ (Zenker and Wolf: this issue). I will focus on how justice entrepreneurs have come to be conceptualized as new agents in the age of the Anthropocene in which all humans can and should be ‘agents of change’ (UNDP 2020). Through the lens of the analytical concept of the hustle, I will look at the intricacies of how they are being constructed and are positioning themselves as agents who ‘are capable of reflecting, communicating and acting upon (in)justices as problems to be addressed and solved’ (Zenker and Wolf: this issue).

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1 For example, suppose poor people do not have ‘access to justice’ to fight against unfair employment conditions. In that case, they are forced to cook with cheap but highly polluting kerosene or live in informal settlements, which negatively impact the environment and make their inhabitants extremely vulnerable to the impacts of climate change.

## 'Entrepreneurial Justice' and 'Justice Entrepreneurs' in Nairobi

### *Field Site and Methods*

This paper draws on an in-depth study of a Nairobi-based 'justice start-up' in 2021. The start-up offered a wide variety of 'justice-related' solutions leveraging digital technology. The co-founders all had a background in law, as they had attended law school together, but had then ventured into different professional careers in the legal sector, IT, and finance. Over the course of five consecutive months, I participated in a wide variety of activities in the start-up, both as a participant observer and observing participant (Thieme 2015:229, citing Welker 2009; Holmes and Marcus 2005; Mosse 2005).

My ethnographic fieldwork within the start-up took place in the office and online meetings, at and pitching events, and digital communication platforms such as Slack or WhatsApp. Moreover, I actively contributed to various tasks 'on the ground', as they called it. For example, I assisted in trying to acquire clients and promote the start-up's solutions in densely populated and low-income neighbourhoods in the outskirts of Nairobi. I also helped prepare funding applications, draft conference papers on the justice innovations they aspired to, and accompanied the co-founders to 'access to justice' conferences in Kenya. In addition to my observations, I conducted in-depth semi-structured interviews and engaged in numerous informal conversations with the co-founders. Starting from the extensive study of the 'justice start-up' as an access point, I have used snowball sampling to connect with other actors within their networks (e.g., interns and employees, investors, mediators) with whom I have conducted twenty online and in-person interviews during this on-going fieldwork. Furthermore, this article's findings are based upon evidence gathered during interviews and informal conversations with ten justice entrepreneurs in Kenya, Uganda, and Nigeria, several representatives of international organizations such as UNDP, government officials, and employees of 'The Hague Institute for Innovation of Law' (HiiL). I also participated in various public events on justice innovation and training sessions of the 'Justice Accelerator'. In addition, I conversed informally with countless people on 'access to justice' while living in Kenya for several non-consecutive years. Nairobi was a particularly suitable location for this study not only due to shifting conceptualizations of access to justice in Kenya at large, as will be discussed in detail below, but also due to its reputation as a 'tech hub' on the African continent attracting global entrepreneurs, impact investors, and global tech companies like Google. This environment has also brought to the fore various organizations specializing in Law Tech, such as Legal Tech Kenya or the Lawyer's Hub. Nairobi's pioneering role in digital technology also earned it the moniker 'Silicon Savannah' (see e.g., Poggiali 2016; Friederici et al. 2020; Mavhunga 2017).

*Discovering and Situating Justice Entrepreneurs in Kenya*

During my fieldwork, I was struck by the absence of opportunities to observe the working of justice solutions in action on the ground. This aspiration to observe groundbreaking and innovative justice solutions stemmed from my pre-fieldwork desk-based research during the global Covid pandemic, which highlighted the rapid adoption of legal tech, often touted online as a means to ‘scale up’ or ‘leapfrog’ access to justice in Kenya. The rhetorical hype surrounding legal tech in Nairobi drew upon the imaginary of digital solutions for development (ICT4D; see, e.g., Ndemo and Weiss 2017; Wahome and Graham 2020). At the height of the pandemic, Kane observed that ‘legal services are part of a growing niche in which “justice entrepreneurs” and “legal empowerment actors” have found ways to deliver their services to under-served populations and strengthen their capacity to solve justice-related issues on the continent in a user-friendly way’ (Kane 2020; see also UNDP 2022). However, as I soon came to realize in my research, many entrepreneurial justice solutions seldomly progressed beyond the prototype stage (Lindtner 2020; see also Donovan 2012 and 2018 on the experimental turn in international aid). Furthermore, my initial research revealed that the ‘legal’ prefix to tech was somewhat misleading. Technologies appeared rather as ‘extra-legal’, ‘beyond the law’, or an ‘alternative’ to the (traditional) legal field, in parallel to the formal public legal system introducing digital service provision (e.g., online court hearings or the digitalization of legal files).

I therefore focused on the heterogeneous and unregulated group of ‘justice entrepreneurs’ situated within a complex and dynamic entanglement of local and global as well as public and private ‘justice actors’ striving to ‘deliver access to justice’. I focused on small-size start-ups by trying to get a foot into the market of entrepreneurial justice. As it turned out to be challenging to obtain an overview of this heterogeneous and often invisible group, I opted for an access point through one of the globally operating actors ‘empowering’ justice entrepreneurs. This empowerment is built on the idea that ‘innovating justice starts with you’ and can thus be delivered by everyone. One of Kenya’s pioneering and most active actors was HiiL. HiiL is a Netherlands-based civil-society organization that runs a ‘Justice Accelerator’ in several African countries such as Kenya, Uganda, and Rwanda. A ‘Justice Accelerator’ is a ‘flagship Innovation programme that funds, trains, and coaches a global cohort of justice startups’. HiiL’s Justice Accelerator, similar to other accelerator programmes,<sup>2</sup> was promoted as an access point to funding, training (e.g., marketing, pitching, impact measurement, or financial strategies) and networks. Based on the portfolio of start-ups on HiiL’s website,

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2 Anonymization of HiiL was not feasible due to HiiL’s pioneering role and visibility in global networks for ‘innovating access to justice’. However, this paper is not a case study of HiiL’s specific practices but about the broader phenomenon of ‘entrepreneurial justice’ in the current era of development coalescing around ‘sustainable development’. See also other ‘Justice Accelerator’ programmes, e.g. by UNDOC (<https://www.unodc.org/e4j/zh/secondary/justice-accelerators.html>, accessed October 6, 2024).

I contacted start-ups that had participated in the four-month Justice Accelerator programme. Thus, HiiL's selection of start-ups and their implicit definition of justice on which the selection drew shaped my initial access point. It is also important to note that the term 'justice entrepreneur' was not an emic or self-attributed designation by local practitioners but was ascribed to the heterogeneous groups by global and predominantly Western-based actors such as HiiL. Thus, I use it as an analytical, not an actor's category in this paper. However, this attribution also suggests the need for a critical examination of the move towards people-centred justice, as it may entail a reframing of justice based on the agendas of influential and well-funded international actors.

The heterogeneous group of justice entrepreneurs shared a frustration with the 'system'. Justice entrepreneurs explained that they see the Kenyan legal system as 'riddled by all different stories of corruption, inefficiency, slowness. Questioning the legally framed justice system', they asked rhetorically: 'Is justice still just if it is not accessible?' Many were lawyers by profession, but, as one entrepreneur pointed out, the profession

didn't appeal to my heart. [...] It didn't make me feel happy. I was like, [...], the legal profession needs a shake-up. It needs a shake-up. Really, really. And probably, I always saw myself doing law, not as an end in itself. Because I need money, but I saw there is a clear path for me to make the system better. [...] So, I was like, let me go and innovate something. Maybe, just maybe, it'll lead to something greater for me, not just, not only just on a personal level but also on a policy/state level. To be involved in projects that get to justice.

As much as law and the legal system often served as a starting point for them, they aimed to go 'beyond it'. All of them shared the perception of an urgent need and responsibility, as well as equally new opportunities to create and accelerate solutions outside the formal justice system, which was deemed mostly inaccessible for the 'common *wananchi*' (a commonly used term in Kenya mixing English and Swahili for 'ordinary citizens') due to a lack of social relations, money, language, and education.

Justice entrepreneurs found themselves navigating complex social dynamics amid rapid ICT innovations and international development interventions contrasted with persistent uneven development and systemic inequality in Nairobi (Thieme et al. 2021). As much as justice entrepreneurs were foregrounded as crucial new actors in this global movement to provide universal access to justice on people's own terms, they often told me that they felt they did not belong to these networks. Their social position was characterized by oscillating between different roles. On the one hand, many justice entrepreneurs emphasized their past experiences of poverty in conversations, pitches, or their online presence – referred to as 'poverty porn' by a justice entrepreneur. 'Poverty porn', drawing on actual and imagined experiences of poverty, created the authenticity and legitimization to create 'people-centred' justice solutions. On the other hand, they embraced and showcased their roles as youthful, dynamic, and smart actors with the capacity to pioneer and implement grassroots justice initiatives. The journey towards acquiring influence and power, not only to envision justice solutions but also to deter-

mine political decisions and resource allocations – thereby transcending their status they described as ‘beggars’ both locally and globally – was sometimes described by my interlocutors as getting a *kitambi* (Swahili for ‘potbelly’). This widely known term in Kenya symbolizes wealth, respect and power, rather than literally physical weight. It is a metaphor – a phenomenon also often characterized as *tumbocracy*<sup>3</sup> – signifying the aspiration to transition from a position of dependence to one of influence in Kenyan society, someone ‘who has made it’ like the entrenched Kenyan elite. Nonetheless, the justice entrepreneurs’ social positioning remained flexible, contingent upon the context, and shaped by whichever identity was most advantageous in a given situation.

In the following, I will first delve into the emic and analytical concept of the hustle. I will then elucidate how ‘people-centred’ development and justice, alongside social entrepreneurship, have emerged as pivotal frameworks in the age of the Anthropocene and the discourses of ‘sustainable development’. These frameworks have opened up new grounds for actors to ‘responsibilize’ themselves and be ‘responsibilized’. Building on these insights, I will describe how the justice entrepreneurs’ role as emerging agents aspiring and hustling for justice can provide important insights into the intricacies of the implementation of the lofty ideal of ‘people-centred justice’. I will elucidate how their practices are intricately woven into a tapestry of diverse ideas, aspirations, funding mechanisms and political dynamics within emerging, globally entangled regimes of justice. This discussion will occur against the backdrop of enduring social, political and economic disparities, which are increasingly obscured by broad conceptualizations of justice that emphasize grassroots empowerment and participation in the era of sustainable development.

## Hustling for Justice in the Era of Sustainable Development

### *The ‘Hustler Nation’*

During my fieldwork, political campaign slogans and party programs by the then presidential candidates, William Ruto and his opponent Raila Odinga, in the lead up to Kenya’s 2022 elections, not only dominated public discourses but also permeated many of our informal conversations in the office. In a conversation in late September 2021, as we prepared instant coffee with powdered milk and plenty of sugar and ate biscuits instead of a proper lunch, one justice entrepreneur pointedly remarked that ‘Politics here is not just about politics’. He stressed, ‘stakes are higher here’. At that juncture, a year prior to the elections, there was a sense of hope among many that change could finally be brought to the ‘common *wananchi*’ who wielded minimal power in Kenya’s political

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3 *Tumbo* means belly in Swahili; see e.g. Makokha (2018); see also Bayart (1993) on the ‘politics of the belly’ in Africa.

and economic landscape. Ruto's rallying cry of 'hustlers versus dynasties' deeply resonated with the widespread discontent and profound frustrations of ordinary citizens, stemming from the entrenched injustices within the Kenyan system within which the responsibility and accountability of those in power were largely non-existent (see e.g. Lockwood 2023; Karanja 2022). Using the slogan 'hustlers versus dynasties', Ruto promised to narrow the divide between the entrenched elites and ordinary citizens, the 'hustler nation'. By foregrounding his 'humble beginnings', such as his childhood experiences of going to school barefoot and hustling by hawking chicken by the roadside, he pledged to challenge and overcome the status quo of entrenched inequalities and injustices through a 'bottom-up economic model' that aimed for inclusivity and social justice for all within the 'hustler nation' (Shilaho 2022).

One of the co-founders emphasized that Ruto is campaigning for an 'untribal thing', as he was not politicizing along ethnic lines but rather advocated the development of a new class consciousness to break open the cleavage between the 'rich and the poor'. The self-ascription of being a 'hustler' or engaging in 'hustling' has thus permeated Kenyan society across social classes, serving as a 'language of action' (Thieme et al. 2021:5; see also Lockwood 2023; Mwaura 2021). Building on the seminal work by Thieme et al. on the concept of the 'hustle' as both an emic and analytical framework, I observed that 'to hustle' has been used by my interlocutors as an 'expressive articulation of everyday struggles and getting by' (Thieme et al. 2021:7). It symbolized an ongoing endeavour and a sense of obligation and responsibility among the highly educated Kenyans, to which the justice entrepreneurs belonged, to seek out new avenues for creating just solutions amidst persistent uncertainties, injustices and inequalities. Therefore, to 'hustle' signifies a way of expressing and asserting (the) 'agency to cope with and work through a constellation of economic, political and social barriers' (Thieme et al. 2021:7). However, it is imperative to clarify that 'to hustle' does not stand for deceitful and illegal practices or modes of tricksterism (ibid.:6). Instead, it stands for innovative and creative practices of doing things the 'African way', despite perceived very unequal chances due to uneven development. Furthermore, the concept of 'hustling' is imbued with 'values of solidarity, caring and nurturing' aimed at fostering a better and more just future (ibid.:8, paraphrasing Kinyanjui 2019:xiii). The pervasive presence of the 'hustler' in Kenya has led to the emergence of various word creations such as the 'hustler economy', 'hustler mentality' or the 'Hustler Fund'. Similarly, HiiL coined the term 'justler' – blending 'justice' and 'hustler' – to signify individuals 'who hustle to bring justice to their country and the whole world'. Thus, I employ the framework of 'hustle' – or its derivative 'justle' – to elucidate the distinctive endeavours for justice being undertaken by justice entrepreneurs at the grassroots level while being entangled in shifting paradigms of justice at globally, particularly in the realm of international development. Thus, justling, in this paper, means accounting for how 'aspirations for justice play out on a number of different scales' (Johnson and Karekwaivane 2018:10).

In the following, I will briefly outline how the concept of 'people-centred' development, as a focal concept in the SDG framework, has come to the fore in the era of



‘sustainable development’ and how it is ‘closely linked’ to the Anthropocene (UNDP 2020:121; UNDG 2013).

### *‘People-Centred’ Development*

Locating injustices as a barrier to development and delivering justice to create a better world figured prominently in many of my conversations with justice entrepreneurs. Many of them, implicitly and explicitly, as well as positively and negatively, referred to the SDGs. Their reference to the goal of access to justice was used in informal and formal conversations, papers for events, pitches, workshops and business plans. The sustainable development agenda seemed uniting and ubiquitous, providing a shared vernacular for globally and locally dispersed actors (Bandola-Gill et al. 2022; Brightman and Lewis 2017:3; Moore 2017:68; Rival 2017:184). This might have even played out more in Kenya, as elsewhere in the Global South, due to the heavy influence of international development institutions on Africa’s development trajectory (Wahome and Graham 2020:1125).

This has entailed new conceptualizations of how and by whom development problems should be solved and how development goals should be defined. Although humans have been identified as the causes of (environmental) destruction, they are also foregrounded as ‘agents rather than as patients’ of development (UNDP 2020:6; see also Rival 2017:185). While the concept of the Anthropocene *describes* the environmental degradation caused by human activity, ‘sustainable development’ is proposed instead as a *prescription for* making our world a better place (Rival 2017:184). The ‘sustainable development’ approach is sold as improving the shortcomings of the Millennium Development Goals (MDGs), which focused heavily on a reductionist approach towards meeting minimal standards for the ‘global poor’ (Fukuda-Parr and McNeill 2019). The SDGs were announced as more ‘transformative and ambitious’, aiming at an equal and fair world for all (Fukuda-Parr and McNeill 2019; Merry 2019). This vision entailed that, first, the SDGs had to be framed as a global agenda for all countries, not only for the Global South, as on the MDG agenda. The highly criticized ‘technocratic top-down’ and ‘donor-driven approach’ of the MDGs was to be replaced with a ‘collaborative journey’ in which ‘no one will be left behind’ (UN General Assembly 2015:1).<sup>4</sup> This meant that ‘all voices’ should be taken into account in the conceptualization and the implementation phase (Fukuda-Parr 2016; Fukuda-Parr and McNeill 2019). Particular emphasis was placed on the previously unheard voices of

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<sup>4</sup> However, discourses on ‘people-centred’ or ‘human’ development are not new. They date back to the 1990s, when the focus on economic performance was gradually replaced with a focus on the multi-dimensional conceptualization of human well-being in international development (Hulme 2007; Fukuda-Parr et al. 2014:107). This shift was triggered by realizing that the development of industrialized nations contributed greatly to the deterioration of the global environment (Bandola-Gill et al. 2022:4, citing WCED 1987:7).

those in the Global South, focusing on those who are poor, and marginalized (UNDG 2013). Second, the criticism of the MDGs for having focused on ‘solving discrete siloed problems’ (UNDP 2020:5) has been replaced with a multidimensional and interconnected approach aimed at simultaneously considering economic, environmental and social components (Gale 2018).<sup>5</sup>

The ‘people-centred’ development of the SDGs is said to have been accompanied by a ‘revolution in responsibility’ (Caballero 2019:140; see also Fukuda-Parr 2016:44; Fukuda-Parr and Hulme 2011). The aim of the SDGs, according to one development practitioner, was to ‘launch a revolution in responsibility, a revolution in how we understand and engage on development so as to be fit-for-purpose for tackling the risks in an age we are already calling the Anthropocene’ (Caballero 2019:140). The catchy term ‘people-centred’ in ‘sustainable development’ documents was taken up by justice entrepreneurs with much frustration. As much as they felt a positive shift towards taking into account a more diverse understanding of development, they also felt they were being ‘responsibilized’ within highly unequal power dynamics and politics, which came to be hidden behind a framing of inclusion. For example, as I was waiting for a prospective client with a justice entrepreneur in one of the many highly populated areas in Nairobi, we got engaged in a heated discussion on the term ‘developing countries’ as being increasingly discussed as an inappropriate term for development approaches, as it relied on a linear idea of development towards ‘the West’ as an idealistic endpoint. He brushed me off, replying, ‘That’s very academic! It is so disconnected from the real-life world of people. We want just that; we want it just like that, how it is in the West!’ This seemed somewhat contradictory, since he had usually insisted that Kenya needs local solutions for its problems. What he seemed to insist on is that he feared that ‘if we drop it, it is like veiling that we have not yet got what we deserve as well’. He felt that although development should be framed as ‘people-centred’, it had still been easier for someone from the West to obtain funding for development-related projects. ‘If I were white, I would have already founded seven justice start-ups’, he noted, referring to unequal access to money and other resources. He was bitter about current approaches to ‘people-centred’ development in which he and other entrepreneurs have become ‘just entertainment’ instead of being treated as capable actors.

In the next section, I will show how the adoption of justice as an SDG has involved the complexities of keeping it open to a ‘people-centred’ approach while equally making it specific enough and thus measurable.

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<sup>5</sup> The insights on the shifting paradigms of international development and the implications of these shifts for development interventions have significantly benefited from the process of jointly writing a grant proposal with Ass. Prof Sandra Bärnreuther on data-driven development, that was recently granted funding by the Swiss National Science Foundation (<https://data.snf.ch/grants/grant/10000933>, accessed October 5, 2024).

*People-Centred Justice*

Both terms, sustainability and justice, are characterized by their ubiquitous use and cross-cultural resonance around the globe, their universalistic nature and normativity towards a better future for all humankind, but avoiding a universally agreed definition (Bandola-Gill et al. 2022). The inclusion of the ‘stand-alone goal on justice’ in international development was hard-won and based on years of controversial political and scholarly work (Satterthwaite and Dhital 2019:96; Namati 2015:4). However, in Kenya, access to justice beyond legal concepts has a long history, as discussed in various studies of legal pluralism (see e.g., Helbling et al. 2015; Ikanda 2018). These mechanisms were formally revived with the enforcement of the new Kenyan Constitution in 2010, in which ‘access to justice for all’ was recognized as an elementary constitutional right (Article 48), including ‘alternative solutions to dispute resolution’ (Article 159(2)(c)). The ‘Alternative Justice Systems Baseline Policy’ 2020, drawing on the Constitution, stated: ‘The plain recognition that a great majority of people in the Global South access justice through AJS (Alternative Justice Systems) has returned the focus on these mechanisms. The obsession with formal state institutions only (Courts and Tribunals) as the instruments of access to justice has now given way to all mechanisms that guarantee access to justice’ (The Judiciary of Kenya 2020:5). As a newspaper article in the local *Daily Nation* emphasized: ‘By constitutional dictate, the “traditional” is no longer “irrational” or its ideas of justice presumptively “repugnant” and bereft of a human rights quotient. Justice is not just about the occasional and spectacular performance before an official font such as the court but more so about the everyday relational practices within the community. It is not teleologically dictated by discrete and atomised activities in courts; it is negotiated and remade in everyday life’ (Ouma Akoth and Ngugi 2020; see also Nader 1980 on ‘alternative justice’). This call for a people-centred approach to justice has been further elaborated and specified in the recently published ‘Blueprint for Social Transformation through Access to Justice (STAJ): A People-Centred Justice Approach 2023-2033.’ This ten-year strategic blueprint, published in 2023, states that ‘justice cuts across all our lives, and therefore belongs to all of us. While the Judiciary plays its constitutional role of ensuring that it delivers justice, the people themselves must become agents for their own justice’ (2023:6). According to the STAJ and other policy documents, these shifts in the justice sector entail a ‘shift in the relationship between the people of Kenya and the organs of the State’ (The Judiciary of Kenya 2023:iv). The members of the Judiciary are envisaged as becoming ‘connectors, promoters, and facilitators’, as people themselves become the providers of justice services (The Judiciary of Kenya 2023:v). Furthermore, harnessing (digital) technology is seen as a ‘game-changer’ ‘to make justice not just expeditious but also widely accessible’ (STAJ 2023:ii).

Justice was not new in development approaches, and the MDGs had implicitly drawn on a justice concept (see e.g., Satterthwaite and Dhital 2019). Indeed, law and justice – often used interchangeably – have been discussed as prerequisites for develop-

ment for a long time. This has been analysed in a wide body of anthropological research on how human rights, the rule of law and transitional justice have become critical in international development approaches since the 1990s (see e.g., Merry 2011:87; Clarke 2019; Anders and Zenker 2014). The proponents of a new idea of justice in the SDGs envisioned a justice concept that ‘lies beyond the technocratic realms of development programming, by insisting that people’s own experience of justice – and injustice’ – should be included (Satterthwaite and Dhital 2019:96). Thus, the vision of justice to be included in the new development framework foregrounded a definition of justice that is ‘formally *contextual*’ (Clarke and Goodale 2010:10; emphasis in the original). This concept is different from human rights-based approaches in previous work on development, which are ‘formally *universal*,’ as they are based on and established through an ‘identifiable body of international instruments’ which are ‘meant to be<sup>6</sup> immune from substantive interpretation based on historical, cultural, political, and other contingent factors’ (Clarke and Goodale 2010:10). Thus, justice departs from the ‘minimum nature’ of human rights in the direction of a form of ‘imaginary’ (Hinton 2018). At this point, it is important to note that I do not dwell on the highly contested debate and technical considerations about measuring a broader understanding of justice (Merry 2019; Satterthwaite and Dhital 2019). This rendering of justice resulted in it being narrowed down ‘to a very incomplete version of access to justice’, focusing on criminal justice problems which seemed to be measurable due to the available data and easier measurability (Satterthwaite and Dhital 2019:97). Only in 2020 was a broader indicator for also measuring access to ‘civil justice’ included (see e.g. Nanima and Durojaye 2020; Sandvik 2020). Instead, I am interested in the vernacularized notion of access to justice on which the justice entrepreneurs’ work has been built and has been widely shared across the network of different actors in Kenya. For example, on discussing the meaning of justice with a local UNDP representative during one of the many coffee breaks at the national conference on access to justice, he stressed that the ‘beauty of the concept (of justice)’ is exactly its elasticity, openness and fluidity that make it ‘people-centred’. The turn towards an open approach to justice was simultaneously seen as a turning away from the definition of justice by the ‘white man’. In a discussion of whether and how the constitutionally recognized ‘alternative justice methods’, such as arbitration, should also be regulated to hold practitioners accountable, one participant argued vehemently against it as if ‘we are taking it from the white man’. He asked: ‘Can we go back to the roots? If we take it as the white man wants it, then it will just be like any other method’. The emphasis on ‘people-centred’ justice was continued in a discussion with a justice entrepreneur. The local UNDP representative expressed his

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<sup>6</sup> As many anthropological studies have shown regarding the normative universality of human rights, ‘international human rights standards are being taken up, translated, resisted, and transformed’ and these studies have also highlighted ‘the implications that engagement with several of these rights in particular can have, not only for the individuals and groups involved, but also for the broader society’ (Foblets et al. 2022:7, citing Destrooper and Merry 2018).

puzzlement at why the justice entrepreneur would not use the increased NGO funding options for justice at the global level. On the other hand, the justice entrepreneur emphasized that he would not want to become a ‘beggar’. Instead of ‘humble begging’, as he called the process of asking for money from NGOs, he opted to hustle for justice in order to ‘democratize justice’. In many justice entrepreneurs’ perceptions, NGOs were a political means to keep Africa dependent on the ‘West’. They described being dependent on donations from NGOs to solve justice problems as an oxymoron, not only because NGOs would continue to dominate justice agendas, but also because NGO business models thrive on injustices as a ‘business model’. One of the entrepreneurs cited the example of malaria, arguing that they could have eradicated it, together with unequal access to healthcare, a long time ago. But because NGOs are ‘in the boat’, malaria is still a huge problem in Africa because the NGOs want their business to continue. While ‘businesses grow big by providing value, NGOs grow big by extracting value’. Thus, it was not only that being ‘grant-dependent’ was seen as unsustainable, but the phenomenon of the NGOs was seen as a cause of the injustices and unjust development that surrounded them. Thus, as they have repeatedly tried out new justice solutions – improvising, shifting the focus when things do not work out and venturing into new areas – that ‘entrepreneurial justice’ would eventually allow them to define and deliver their visions of justice. This was framed as a revolutionary and innovative counter-agenda to donor-driven international development agendas and ineffective, inaccessible, unequal and corrupt governmental justice institutions, which ‘for thousands of years, have remained rigid’ (Muthuri 2022). It was thus not solely an approach to revive local justice solutions but to invent and allow for just development ‘the African way’.

As I mentioned earlier, their solutions remained at the ‘prototype’ stage (see Lindtner 2020 on the ‘Prototype Nation’). It seemed as if the process of ‘prototyping’ ‘people-centred’ justice solutions was itself providing value in tandem with seemingly heterogeneously developing the definition of justice itself. Hackathons with names such as ‘Jenga Haki’ (Swahili: ‘to build or construct justice or rights’<sup>7</sup>) alluded to this process of continuously making and experimenting with justice amid a ‘justice emergency’ (UNDP 2022). It seemed the more prototypes, the closer ‘access to justice’ for all. For example, in an advertisement video of a globally operating social enterprise seed funding justice entrepreneurs, the CEO switched on a vacuum cleaner and said: ‘It is nice that we can make vacuum cleaners user-friendly, but we think justice is a little bit more urgent’. By saying this, the CEO did not refer to commensurable and universal solutions for justice – as in the global applicability of a vacuum cleaner – but rather foregrounded that humans have been intelligent and capable of building simple and effective solutions in other areas of life. Thus, ‘prototyping’ justice seemed to be viewed ‘as a promising way to intervene in entrenched structures of inequality, exploitation,

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<sup>7</sup> See Becker 2018 on the complex translations of the Swahili term *baki* into English and the term’s fecundity.

and injustice' (Lindtner 2020:1). However, ambitious goals like 'justice for all' raised questions about financing (see e.g. Manuel et al. 2019) as I will discuss in the following section.

### *Justice as a 'Business Case'*

As we have seen in the previous section, the shift toward 'people-centered' justice in tandem with the 'revolution in responsibility' has opened up fluid and emergent channels to justice and a changed conceptualization of capable actors beyond institutions toward the inclusion of individuals. For example, the Organisation for Economic Co-operation and Development (OECD), has suggested in White Paper 'Building a Business Case for Access to Justice' (OECD n.d) that the proposed business case for access to justice draws on a 'people-centric understanding of access to justice' going beyond a focus on institutions and legal concepts such as the rule of law 'to consider the entire range of justice channels and mechanisms', by taking 'the experiences of the people as a starting point' and seeking 'to approach access to justice from the standpoint of individuals and social groups rather than that of institutions' (OECD n.d:1).

While some argue that justice should be reflected in national budgets, others say that social enterprise models are the way forward as it empowers creative and innovative individuals for closing the 'funding gap' for access to justice solutions (see e.g. IDLO 2019; World Justice Project 2019:115). Entrepreneurial models in development – also called 'entrepreneurial developmentalism' have come to the fore with the turn toward business in development toward render(ing) commercial the problem of poverty' (Mosse 2013:239; Dolan and Rajak 2018:236). The initial focus of 'entrepreneurial developmentalism' lay on Corporate Social Responsibility (CSR) models which have been criticized for their philanthropic and paternalistic nature (Rajak 2011; Dolan et al. 2011; Schwittay 2011). The successor social enterprise models foregrounded a 'new individualist paradigm of progress' promising that 'everyone is potentially an entrepreneur, from the least to the most privileged' (Irani 2019:2; see several anthropological studies on entrepreneurial models, e.g. Bärnreuther 2023; Huang 2020; Neumark and Prince 2021) and thus an 'agent of change' (Irani 2019). This mirrors the Anthropocene discourse in the SDG documents that in the 'age of humans', 'human development puts people at the center of development – people are agents of change' (UNDP 2020:70). Or, put differently, if individuals can change the planet for the worse, they should also be able to come up with innovative solutions. Thus, the market is increasingly seen as generative for 'solutions to social problems' (Dolan et al. 2018) and as a way of economic justice as 'development imperatives' are turned into 'business opportunities' (Dolan et al. 2018:2–3; Burgis-Kasthala 2019:1175).

In comparison to other sectors, entrepreneurial models in the justice sector are not only thought to be an alternative model for implementation but also to define the justice sector or the goal of access to justice themselves. To start their justice innovation, the justice entrepreneurs depended on the non-equity 'seed funding' from social enter-

prises such as HiiL, which were further entangled into complex networks of governmental actors, international organizations and investors.<sup>8</sup> Based on good performance or awards, the justice entrepreneurs qualified for more ‘untied’ funding, which was said to allow them to not only scale their justice solutions relatively freely, but also to create an impact and change the concept of justice delivery. However, scaling their solution proved impossible for most justice entrepreneurs. One justice entrepreneur commented sarcastically: ‘They give you 20,000 USD to create justice, to eliminate poverty. What can you do with that money? I hate such challenges!’ Having their business model thrive on the ‘poor and marginalized’ inflicted them with ethical and moral concerns. Thus, instead of taking money from ‘people who need it the most’, pitching became part of their business. One justice entrepreneur said, for example, ‘*nikiamka* (Swahili for ‘when I wake up’) I don’t even know whether I’ll pitch to (company x) or (company z)!’ Pitches became more and more filled with the same lofty principles and ‘creative stories’ of how you want to ‘save the poor’. It must be an imaginary, a vision, a dream because ‘once it is established, it does not work anymore’. Their identities shifted continuously from someone who is being responsible and also capable of making justice come true by setting up an office, a fancy website, or nice business plans, and their feelings of ‘just surviving’ and ‘just trying’ and making justice a business opportunity by building on inequalities, precarity and injustices.

## Discussion and Conclusion: Hustling for Justice

The vague and fluid definition of justice in the SDGs has provided new potential to be filled with local definitions of justice. In this paper, I have tried to unpack how ‘entrepreneurial justice’ allows us to study ethnographically how a heterogeneous group of individual justice providers is trying to bring a vaguely defined definition of justice to life and deal with its fuzziness. They have started with the assumption that it is not about balancing market logics with social justice but rather about making use of the market as an alternative to donor-driven and normatively loaded development interventions to create instead solutions to injustices which are often seen as an aspect of the neoliberal structures that are imposed on Africa by the West. The hype around (social) entrepreneurship mirrors current jargon in terms of empowerment, inclusion, participation and responsibility that are widely used in ‘sustainable development’ discourses. Entangled in continuous dilemmas around trying to make justice available on their own terms, they ‘pitched’ justice to Western-based funders as something that can be harnessed and scaled up for sustainable development while simultaneously feeling that justice can never be turned into a ‘business case’. The framing as of justice as ‘people-

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<sup>8</sup> As it goes beyond the scope of this paper to provide a better understanding of the funding mechanisms for entrepreneurial justice, see instead e.g. HiiL 2022; Manuel et al. 2019; OECD n.d.

centred' in international development discourses conveyed an image that justice can be created in spaces that are free of politics and that if solutions are tailored enough to local needs, they will work and 'scale' in numbers and scope. The continuous 'prototyping' of and 'experimenting' with justice solutions conjured up an image that the uptake of 'justice solutions' in the local market depends on the justice entrepreneurs' abilities to understand local justice needs. Studying the justice entrepreneurs' hustle in order to envision, conceptualize and sometimes dump 'justice solutions' allows us to study how they navigate precarity, uncertainty and informality to create new ways to deliver and not just hope for justice. Furthermore, it will enable us to analyse how these new actors use their solutions not only as new opportunities but also as a form of resistance against imposed justice solutions and injustices from the West. Their hustle for justice provides insights into their opportunistic and playful activities of subversively and creatively making use of new funding streams to build 'justice' in the absence of public justice systems while being in a constant dilemma, fearing that 'justice is unprofitabilizable and unmonetizable by definition'.



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