

# SDG 8: DECENT WORK AND ECONOMIC GROWTH



# A LEGAL GUIDE

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This Legal Guide to the Sustainable Development Goals (SDGs) was first published by Advocates for International Development (A4ID).

## **Disclaimer**

The information contained within this guide is correct at the date of publication.

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## **About A4ID**

Advocates for International Development (A4ID) was founded in 2006 to see the law and lawyers play their full part in the global eradication of poverty. Today, A4ID is the leading international charity that channels legal expertise globally toward the achievement of the UN Sustainable Development Goals. Through A4ID, the world's top lawyers are able to offer high-quality, free legal support to NGOs, social enterprises, community-based organisations, and developing country governments that are working to advance human dignity, equality, and justice. A4ID also operates as a knowledge and resource hub, exploring how the law can be better used to help achieve the SDGs through a range of courses, publications, and events.



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## Foreword

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### The SDG Legal Initiative

There are now less than ten years left to realise the achievement of the UN Sustainable Development Goals (SDGs). Aware of the challenge, Advocates for International Development (A4ID) has been continuing its innovative work towards meeting these targets by harnessing the power of the law and the work of lawyers. A4ID's SDG Legal Initiative has been developed because it is now more important than ever that the global legal community comes together to use their skills to advance positive global change.

The SDG Legal Initiative is a call to action to the global legal profession to work towards the achievement of the SDG Agenda and we have until 2030 to do so. By sharing knowledge and providing opportunities to take practical action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity, A4ID will continue its work with the legal sector to enhance this impact. The SDG Legal Initiative aims to create communities of practice, and to amplify the role of the legal sector in achieving the SDGs.

### Legal Guide to the SDGs

As part of its SDG Legal Initiative, A4ID has developed the world's first Legal Guide to the SDGs. The Legal Guide has been developed as a unique resource, providing a foundational analysis of the role that law can and should play in the achievement of the SDGs. Developed in collaboration with lawyers, academics, and development practitioners, the Guide is made up of 17 distinct chapters, each focussed on one of the 17 goals. Each chapter provides an overview of the relevant regional, national, and international legal frameworks, highlighting how the law can be applied to promote the implementation of the SDGs. The Guide also offers key insights into the legal challenges and opportunities that lawyers may encounter, presenting clear examples of the actions that lawyers can take to help achieve each goal.

### Role of law in achieving decent work and economic growth

Workplaces have the power to give us a sense of purpose, productivity and worth, but they are also institutions of inherent power imbalance. SDG 8 focuses on the role of workplaces and the wider economy to create greater growth and prosperity, harnessing the potential of our people for a sustainable future built by, and for, everyone. By providing access to economic opportunities, workplace protections

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**The ability to economically and financially sustain oneself is central to sustainable development.**

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and fair pay, countries can promote greater social mobility, combat poverty, and improve the working and living conditions for the most vulnerable in their society.

For individuals, access to work means having the ability to put food on the table and a roof over your head. However, it isn't simply a matter of income. Decent work extends to adequate workplace security, fair pay, equal treatment and social protections for a healthy and balanced workforce. These aspirations have been hit hard over the last couple of years as the COVID-19 pandemic gave rise to the worst recession since the Great Depression. This compromised the global economy, threatened industries and led to a rise in unemployment. Job security for female and younger workers was also disproportionately threatened, and a global rise in child labour was witnessed for the first time in two decades in 2021. At the same time, a widening productivity gap is emerging between the world's low- and high-income economies. It is thus predicted that for many countries, 'building back better' will continue to see unemployment rates well below pre-pandemic levels for the next couple of years.

SDG 8's emphasis on 'growth' is critical in this respect.

**Yasmin Batliwala, MBE**

**Chief Executive**

Focusing on the need for greater investment into new industries, new innovations and local enterprises, it examines the ways in which countries might diversify economic productivity and support smarter ways of working. This recovery holds the potential to pave the way for new forms of business built on the triple bottom line of people, planet and profits. However, straitened times also give rise to the risk of greater forms of exploitation for short-term gain. This includes exploitation of people from modern slavery and human trafficking, as well as exploitation of natural resource through supply chains and industries born of environmental degradation.

The law acts as a protector in times of crisis and it is through it that we can hope to achieve prosperity post-pandemic and beyond. The role of lawyers in establishing the 'new-normal' for workplaces across the globe, in combating exploitation in all its forms and securing economic growth through enhanced Environmental, Social and Corporate Governance (ESG) will be at the heart of these changes. This guide is not just for in-house counsel, employment lawyers or corporate law firms. It is for all lawyers who do what they do for a sense of purpose, productivity and worth.





## Contents

<b>2</b>	The Sustainable Development Goals	<b>28</b>	Examples of relevant national legislations
<b>3</b>	Key terms	<b>35</b>	Insights for the legal profession
<b>3</b>	Overview of the targets	<b>35</b>	a) Examples of relevant case- studies
<b>11</b>	Key actions lawyers can take	<b>39</b>	b) Legal context and challenges
<b>12</b>	Elements of the international legal framework	<b>40</b>	c) So, what can lawyers do?
<b>22</b>	Regional legal and policy frameworks	<b>43</b>	Endnotes

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# The Sustainable Development Goals

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The UN Sustainable Development Goals (SDGs) are a universal call to action to end poverty, protect the planet, and ensure that all people can enjoy peace and prosperity.

Also known as the Agenda 2030, the SDGs were agreed in 2015 by the UN General Assembly (Resolution 70/1). They were adopted by all UN Member States, and 2030 was set as the deadline for achieving them.

Compared to the Millennium Development Goals (MDGs),



which they succeed, the SDGs cover more ground, with wider ambitions to address inequalities, climate change, economic growth, decent jobs, cities, industrialization, oceans, ecosystems, energy, sustainable consumption and production, peace, and justice. The SDGs are also universal, applying to all countries, whereas the MDGs had only been intended for action in developing countries.

The 17 interdependent goals are broken down into 169 targets. At the global level, progress is monitored and reviewed using a set of 232 indicators. The Addis Ababa Action Agenda provides concrete policies and actions to further support the implementation of the 2030 Agenda. Each year, the UN Secretary General also publishes a report documenting progress towards the targets. In addition, the annual meetings of the High-level Political Forum on Sustainable Development (HLPF) continues to play a central role in reviewing global progress towards the SDGs.

At the national level, even though the SDGs are not legally binding, governments are expected to implement country-led sustainable development strategies, including resource mobilisation and financing strategies, and to develop their own national indicators to assist in monitoring progress made on the goals and targets.

SDG 17 stresses the importance of multi-stakeholder partnerships to achieve the goals. The mobilisation of governments, local authorities, civil society, and the private sector is needed to achieve this aim. Today, progress is being made in many places, but, overall, action to meet the SDGs is not yet advancing at the speed or scale required. This decade must therefore deliver rapid and ambitious action to meet the SDGs by 2030.

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## Key terms

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### SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

In the context of SDG 8, the following terms mean:

**‘Inclusive Economic Growth’:** To be inclusive, economic growth ‘creates opportunities for all groups of the population and distributes the dividends of increased prosperity, both in monetary and non-monetary terms, fairly across society’.<sup>1</sup>

**‘Sustainable Economic Growth’:** According to the Organisation for Economic Co-operation and Development (OECD), sustainable economic growth means ‘growth that balances economic, social and environmental

considerations’.<sup>2</sup> In so doing, it looks to economic growth that is generated without posing significant problems to the world’s resources of today or for future generations.

**‘Decent Work’:** The ‘decent work agenda’ developed by the International Labour Organization (ILO) consists of four pillars: ‘job creation, rights at work, social protection and social dialogue’. This includes providing ‘opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for all, better prospects for personal development and social integration’.<sup>3</sup>

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## Overview of the targets

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The first of the Millennium Development Goals (MDG) aimed to achieve full and productive employment, as well as decent work for all. However, whilst the period between 1990 and 2015 saw a considerable reduction of extreme poverty, employment has not kept up with the growing labour force. The global employment-to-population ratio (the proportion of the working age population that is employed) fell from 62% in 1991 to 60% in 2015, and currently stands at 55% as of 2021.<sup>4</sup> It was clear, therefore that sluggish growth in employment rates, widening inequalities, and economic turbulence necessitated a rethinking of economic and social policies, paving the way for SDG 8.<sup>5</sup>

SDG 8 aims to connect the promotion of inclusive and sustainable economic growth, with full and productive

employment and decent work for all. Linked to the other SDGs, including SDG 1, it is built on the premise that long-term economic growth (as is necessary to alleviate poverty) requires better employment opportunities and job prospects for all pockets of society. In turn, SDG 8 harbours the potential to provide more resources for education, health, infrastructure, and all public services.

Since the turn of the century, the relevance of decent work and economic growth has been noted on more than one occasion. In 2010, following the 2008-2009 financial crisis, global unemployment rates stood at 6.1%<sup>6</sup> and it took 8 years for unemployment rates to recover from the economic turbulence. It was therefore only in 2018 that pre-crisis levels of 5% were realised.<sup>7</sup> More recently, the COVID-19 pandemic



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has once again disrupted economic activities, and by 2020 the global unemployment rate had reached 6.5% - a huge step backwards and a sorrier state of affairs than the decade before. The need for SDG 8 has thus never been clearer, especially when the cross-cutting impacts are considered.

Indeed the pandemic may have been universal, but it was by no means equal. Regional, gender and age-based disparities were exacerbated by the economic impacts, with young workers and women particularly affected by the crisis facing employment losses of 9.7% and 5% respectively, compared with 3.9% for men and 3.7% for adults.<sup>8</sup> Gender pay gaps and future prospects for young people, particularly women, have subsequently been threatened with knock on impacts to other

SDGs including the performance of SDGs 4, 5 and 10.

Whilst the situation looked to improve at the beginning of 2022, it was only in the more advanced economies that pre-pandemic levels of employment were witnessed. By contrast, low- and middle- income countries are still in the midst of recovery, and in Europe a further deterioration of hours worked has been experienced as a result of the war in Ukraine.<sup>9</sup> Indeed, this combination of political and economic crises has resulted in a global cost-of-living increase with high inflation on food and energy prices, stricter monetary policies and a general increase in financial risk for many people around the globe. The ILO are therefore calling for 'international solidarity and coordination' in restabilising the international labour market.



TARGET 8-1



**Sustain per capita economic growth in accordance with national circumstance and, in particular, at least 7% gross domestic product growth per annum in the Least Developed Countries**

Before the COVID-19 pandemic in 2020, global economic growth was decreasing. Real GDP per capita increased by 2% from 2014-2018, but only 1.3% in 2019.<sup>10</sup> Since the COVID-19 pandemic, real GDP per capita declined even

more significantly at a rate of 4.4% (2020).<sup>11</sup> Whilst this has since rebounded in 2021, growth has been further impacted by geopolitical tensions such as the war in Ukraine and it is expected that global growth for 2022 will average 2.1% only.

For Least Developed Countries (LDCs), the situation appears slightly more optimistic with a projected rise of 4% in 2022 and 5.7% in 2023.<sup>12</sup> However, this still falls short of the intended target of 7% as set under target 8.1.

TARGET 8-2



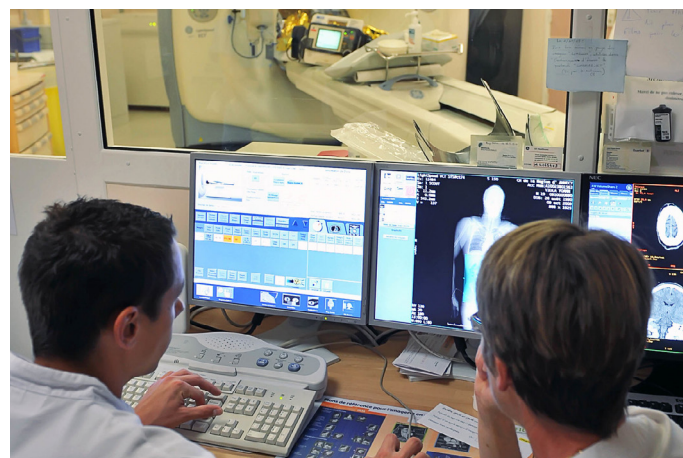
**Achieve higher levels of economic productivity through diversification, technological upgrading and innovation, including through a focus on high-value added and labour-intensive sectors**

‘Economic productivity’, as defined by the OECD, is the ratio between volume of output and volume of inputs. It therefore measures the efficiency and use of production inputs (e.g., labour and capital) in producing a given level of output.<sup>13</sup>

Labour productivity increased globally by 2.1% from 2016 to 2019,<sup>14</sup> but faced a slowdown caused by COVID-19 with global output per worker dropping by 0.6% in 2020. This has since improved, however recovery efforts, as noted before, are inconsistent across the board and productivity levels in LDCs continue to be on the decline (falling by 1.6% in 2021). Even on an intranational basis, recovery for smaller firms has been stunted as the uncertainty of COVID-19 and the current financial landscape poses challenges for business security.<sup>15</sup>

Nonetheless increases in economic productivity in developing regions, especially in Eastern and South-eastern Asia, have historically outpaced that of developed regions,<sup>16</sup> and

continue to do so as part of recovery efforts since 2020.<sup>17</sup> There is therefore promise that Asia’s strengths in technological upgrading and digital technologies can help to maintain growth, notwithstanding tightened financial conditions, provided that inequalities between small and large firms are overcome.<sup>18</sup> For other developing regions however, including Latin America and the Caribbean, outputs per worker remain low, falling drastically in 2021 as compared with the year before.



TARGET 8-3



**Promote development-orientated policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalisation and growth of micro-small and medium-sized enterprises, including through access to financial services**

Progress towards this target is tracked by the “proportion of informal employment in total employment, by sector and sex”. Pre-COVID-19 estimates suggested that in 2018, approximately 2 billion women and men, or 60% of the world’s employed population, operated within informal employment.<sup>19</sup> Since then, informal-economy workers have been significantly affected by the COVID-19 pandemic, facing high risks of poverty with limited protection schemes to safeguard against job loss and loss of income.<sup>20</sup> As a result, the incomes of workers in the informal economy was noted to have dropped by 60% in the first month of the pandemic alone.<sup>21</sup> This has

however, since improved dramatically in certain regions including Latin America.<sup>22</sup>

States are encouraged to implement policies stimulating the formalisation of jobs and the creation of enterprises, including through facilitating access to financial services. Looking at the impacts of COVID-19 on entrepreneurial growth, the Global Entrepreneurship Monitor (GEM) has identified a number of country-specific challenges amongst 46 participant countries. Assessed against GEM’s list of nine Entrepreneurial Framework Conditions (EFC), these challenges include: low levels of entrepreneurial education, bureaucratic inefficiencies in funding, and barriers of access to finance.<sup>23</sup> Other policies to promote economic development and poverty reduction also include creating and preserving manufacturing jobs, helping the sustainable recovery of the aviation industry, growing global manufacturing output, providing small-scale industry enterprises with better access to credit and increasing investment in R&D, particularly in the pharmaceutical industry and for Artificial Intelligence.<sup>24</sup>

TARGET 8-4



**Improve progressively, through 2030, global resource efficiency in consumption and production and endeavour to decouple economic growth from environmental degradation, in accordance with the 10-year framework of programmes on sustainable consumption and production, with developed countries taking the lead**

The UN Environment Programme launched the 10-year framework of programmes on sustainable consumption and production (10YFP) at the Rio+20 Conference in 2012.<sup>25</sup> The 10YFP, rebranded in February 2018 in the ‘One Planet

Network’, is an international commitment to accelerate the transformation towards sustainable production and consumption in all countries including developed and developing ones.<sup>26</sup> 10YFP consists of six programmes. One of these focuses on resource efficiency to combat the unsustainable use of resources that has triggered critical scarcities, contributed to climate change and caused widespread environmental degradation.<sup>27</sup>

Target indicators 8.4.1 and 8.4.2 look to material footprints and domestic material consumption, however proposed indicators for sustainable consumption and production, with developed countries taking the lead, have included: nitrogen use efficiency in food systems, implicit incentives for low-carbon



energy in the electricity sector, and crop water productivity (measured in tonnes of harvested product per unit irrigation water).<sup>28</sup> Sustainable consumption and production has also

been included as a stand-alone goal (SDG 12), with target 12.1 calling for the implementation of the 10YFP.



**By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value**

The global unemployment rate stood at 5.7% in 2016, down from a peak of 6.6% in 2009 following the global financial crisis.<sup>29</sup> In 2019, before the COVID-19 pandemic, the unemployment rate was considerably higher among (i) younger workers than among adults (three times that of adults);<sup>30</sup> (ii) persons with disabilities;<sup>31</sup> and women (9% more women than men were unemployed).<sup>32</sup>

The United Nations found, at that time, that women were around 15% more likely to be unemployed than men worldwide. The widest gender gaps were noted in Northern African and Arab States with an unemployment rate for women that was more than twice that of men.<sup>33</sup> Similarly, the International Labour Organization's 2018 Global Wage Report indicated that the global gender pay gap stood at about 16%.<sup>34</sup>

Since then, it has been widely recognised that the demographics of youth and female workers have been especially hard hit by the COVID-19 pandemic,<sup>35</sup> with employment losses of 8.7% and 5%, respectively, in 2020, compared with 3.7% for adults and 3.9% for men.<sup>36</sup> This is exacerbated by the impacts of lockdown measures during the COVID-19 pandemic which resulted in disruptions to technical, vocational education and on-the-job training.

The COVID-19 pandemic further aggravated gender inequalities in the workplace, with women being far more

likely than men to drop out or be pushed out of the labour force, increasing longstanding gender gaps in labour force participation rates.<sup>37</sup> In the area of employment and economic benefits, more than 90% of countries mandated non-discrimination on the basis of gender in employment, but almost half of them continued to restrict women from working in certain jobs or industries.<sup>38</sup>



TARGET 8-6



### **By 2030, substantially reduce the proportion of youth not in employment, education or training**

The International Labour Organization has found that more than 20% of the global youth population are not in education, employment or training.<sup>39</sup> Global youth unemployment far outweighs adult unemployment rates at 15.6% in 2021; more than three times the adult rate.<sup>40</sup> The impacts of these macroeconomic conditions not only threaten the long term prospects for the global youth, but result in vulnerabilities such as ‘scarring’; trapping young workers, even where overqualified, in

lower paid positions and often in informal sectors. These vulnerabilities are anticipated worldwide in both low- and high-income countries.<sup>41</sup>

For those in employment, the International Labour Organization has further found that young workers are twice as likely to live in extreme poverty than adult workers,<sup>42</sup> and for those in education and training, significant disruptions to learning have set youth prospects back with widespread school closures due to COVID-19 impacting 1.6 billion learners.<sup>43</sup> As such, the impetus to focus on the availability of and quality of youth employment, education and training is emphasised.

TARGET 8-7



### **Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025, end child labour in all its forms**

2021 global estimates indicate that approximately 49.6 million people are in some form of modern slavery either through forced labour or forced marriage; with recent trends signifying an increase in both scenarios across all regions of the world.<sup>44</sup> The impacts of COVID-19 to economic stability, a deterioration in working conditions and increased indebtedness have been linked as drivers of these trends, however gaps in understanding as to how they might have evolved since, or the exact extent of these cases, suggest that the reality of modern slavery is still greatly understated.

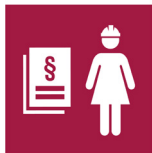
In particular, statistics concerning children paint a worrying picture with 12% of forced labour cases estimated to be instances of child labour.<sup>45</sup> The reality of this figure, however, is expected to be much higher. In these scenarios, COVID-19

has had additional ramifications with the loss of life of parents leaving a greater proportion of children vulnerable to exploitation. UNODC statistics have found that children account for one third of victims of human trafficking. These instances disproportionately impact low-income countries, where the proportion rises to half, and is largely centred around instances of child labour.<sup>46</sup>

A final threat to child welfare, exacerbated by an increase in global conflict, is that of child soldiers. Between 2005 and 2020, more than 93,000 children were verified as recruited and used by parties to conflict, although the actual number of cases is once again believed to be much higher.<sup>47</sup> In 2021 alone, 6,310 children were identified and verified by the UN as having been recruited and used as child soldiers. This was noted primarily in the Democratic Republic of the Congo, the Syrian Arab Republic, Somalia and Mali.<sup>48</sup>



TARGET 8-8



**Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment**

Labour rights refer to the core labour standards which are considered as the Fundamental Principles and Rights at Work. These include: ‘freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.’ The standards, applicable to all workers, are contained in eight Fundamental ILO Conventions that member states are called

upon to ratify, if they have not yet done so, and implement in good faith.<sup>49</sup>

Progress towards safe and secure working environments is measured by the frequency rates of occupational injuries. Globally, work-related deaths per population fell by 14% between 2000 and 2016 suggesting workplace health and safety had improved. However, in the same period, deaths from heart disease and stroke associated with exposure to long working hours rose by 41% and 19% respectively.<sup>50</sup> As of June 2022, ‘safety and health’ was added to the ILO’s Fundamental Principles and Rights at Work, delineating a fifth category for which ILO member states now commit to respect and promote.<sup>51</sup>

TARGET 8-9



**By 2030, devise and implement policies to promote sustainable tourism that creates jobs and promotes local culture and products**

Tourism is one of the fastest growing global industries and provides substantial income for many countries. However, it is also a sector that can cause serious damage to a country’s cultural heritage, and cause environmental degradation, calling for sustainable practices.

In 2019, destinations worldwide registered approximately 1.5 bn foreign tourists. The tourism sector directly contributed to 4.4% of GDP, 6.9% of employment and 21.5% of service exports in OECD countries.<sup>52</sup> However, due to the pandemic, global tourism suffered its worst year on record, with international arrivals dropping by more than 70% in 2020.<sup>53</sup>

The current indicator for target 8.9 focuses on tourism direct gross domestic product (Tourism Direct GDP). This comprises the makeup of tourism as a percentage of gross domestic product of a country and its impact on employment and

service exports. There is a risk however, that the ‘sustainable’ and ‘local’ aspects of the target are not adequately represented within the indicator.<sup>54</sup> In an effort to adequately represent these more ‘sustainable’ and ‘local’ aspects therefore, the OECD recommends that national policy makers place a greater focus on ‘environmental and socio-cultural pillars of sustainability to deliver net benefits to local communities...and combat climate change.’<sup>55</sup> This should be done in close co-operation with industry and civil society.

Similarly, the United Nations World Tourism Organisation launched the “Measuring the suitability of tourism” initiative (UNWTO MST) in 2015 to create an international statistics-based framework for measuring tourism’s role in sustainable development. UNWTO MST integrates statistics on economic, environmental, and social dimensions of sustainable tourism.<sup>56</sup> As of August 2020, 11 MST pilot studies had been conducted. The aim of ongoing pilot studies is for countries to undertake projects aimed at measuring the sustainability of tourism consistent with the aims of UNWTO’s proposed MST framework.<sup>57</sup>



**Strengthen the capacity of domestic financial institutions to encourage and expand access to banking, insurance and financial services for all**

As of 2021, 76% of adults globally have an account at a bank or regulated institution according to the World Bank, with account ownership having increased by 50% from 2011-2021. These developments have improved greatly since COVID-19

with one third of adults in developing economies paying their utility bills directly from an account for the first time since the pandemic. However, difficulties in obtaining extra finances at speed, in case of emergency or unexpected expense, persist.

For the 1.4 billion adults without accounts, difficulties of access include a lack of consistent income, insufficient documentation and the physical distance to financial institutions which have prevented them from securing financial services.<sup>58</sup>

**Despite continued gaps in financial services for typically underserved adults, such as women, the poor, and the less educated, progress has been made. -World Bank**



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## Key actions lawyers can take

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The final section of this chapter provides more details on how the international legal community can engage in efforts to achieve SDG 8. However, the following short summary

describes some of the key actions lawyers can take to contribute to the sustainable development agenda to realise the right to food for all.

### Learn and educate

Lawyers can build their knowledge by exploring resources including research published by international development agencies. Legal professionals can study policies and programmatic efforts to promote sustainable growth and decent work, at local, national, regional and international

levels. ILO and The Business & Human Rights Resource Centre are some valuable sources of information for companies in a wide range of sectors, and for those who advise them on legal issues

### Integrate

When advising business clients, commercial lawyers can draw attention to the growing legal requirements related to human rights due diligence and disclosure in their operations and supply chains. Lawyers can take

into consideration relevant applicable laws, such as the UK Modern Slavery Act or the French Due Diligence Law, as well as any other non-binding guidelines like the UN Guiding Principles on Business and Human Rights.

### Act

By aligning their work with the SDGs, lawyers can be confident that they are taking practical steps towards a comprehensive and inclusive roadmap for sustainable development. Developing a pro bono strategy with clearly identified goals enables firms to assess the effectiveness of pro bono work over time and therefore increase its impact.

Pro bono work can contribute to the achievement of SDG 8 through multiple avenues like drafting various legislations that protect workers' rights across industries. Legal professionals can also provide assistance in developing legal frameworks for implementing country level policies that can protect the right to decent work.

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# Elements of the international legal framework

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## Universal Declaration of Human Rights

**Adopted by the UN General Assembly:** 10 December 1948

The Universal Declaration on Human Rights (UDHR) is a landmark in the articulation and advancement of fundamental human rights and freedoms. In 30 articles, the UDHR sets forth a series of civil, political, economic, social and cultural rights. Although it was not intended to create legally binding obligations, the UDHR presents a common standard of achievement that is widely regarded as customary international law. Moreover, many of its provisions were later adopted in binding international human rights instruments.

In relation to Goal 8, Article 23 of the UDHR provides that everyone has the rights to work, to equal pay for equal work, and to just and favourable remuneration ensuring an existence worth of human dignity, as well as the right to form and join trade unions. Article 24 provides that everyone has the right to reasonable limitation of working hours and periodic holidays. Article 22 provides for the right of everyone to social security and to realisation of the economic rights indispensable for his/her dignity. Article 4 prohibits slavery and servitude.

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## International Covenant on Economic, Social and Cultural Rights

**Adopted by the UN General Assembly:** 16 December 1966

**Entered into force:** 3 January 1976

**Status of ratification (as of May 2023):** 117 Parties

The International Covenant on Economic, Social and Cultural Rights (ICESCR), drawing on the UDHR, affirms a series of human rights and encourages social progress. Legally binding on a large number of States, it indicates a wide consensus on economic, social and cultural human rights. However, a number of States have signed but not ratified the ICESCR, notably the United States.

As applicable to Goal 8, under Articles 6, 7 and 8 of the ICESCR, State parties are obliged to recognise the right to work and to just and favourable conditions of work, the right to remuneration which provides fair and equal wages and a

decent living for themselves and their families, the right to safe and healthy working conditions and to rest, leisure and reasonable working hours, and the right to form and join trade unions.

State parties under the ICESCR submit reports to the UN Committee on Economic, Social and Cultural Rights, a body made up of 18 independent experts. The reports outline the laws and policies which governments have adopted to implement ICESCR rights. They also provide supporting evidence about the effect of these laws on people's enjoyment of them. An Optional Protocol to the ICESCR, adopted in 2008, established a complaint mechanism that allows the Committee to receive complaints from persons alleging violations of their rights under the ICESCR against State parties that are also party to the Optional Protocol.

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## International Labour Organization Conventions

The ILO has a unique “tripartite” structure that brings on board government representatives, employers, and workers on an equal level to address issues related to work and social security. The International Labour Conference reunites its constituents once a year. It adopts Conventions, which are legally binding international treaties that need to be ratified by Member States, and Recommendations, which are non-binding guidelines.

The ILO has identified eight Conventions as fundamental.

### 1. Convention No.87: Freedom of Association and Protection of the Right to Organise

**Adopted:** 9 July 1948

**Entered into force:** 4 July 1950

**Status of Ratification (as of May 2023):** 157 Parties

This Convention sets the right for workers and employers to establish and join organisations of their own choice without previous authorisation.

### 2. Convention No.98: Right to Organise and Collective Bargaining Convention

**Adopted:** 1 July 1949

**Entered into force:** 18 July 1951

**Status of Ratification (as of May 2023):** 168 Parties

This Convention protects workers against acts of anti-union discrimination, for instance, dismissal due to union membership or participation in union activities. Convention No.98 also requires States to encourage and promote voluntary negotiation between employers’ and workers’ organisations to reach collective agreements regulating terms and conditions of employment.

### 3. Convention No.29: Forced Labour

**Adopted:** 28 June 1930

**Entered into force:** 1 May 1932

**Status of ratification (as of May 2023):** 180 Parties

This Convention prohibits forced labour which is defined as work that an individual has not volunteered to undertake. There are a number of exceptions, including compulsory military service or any work or service exacted from any person as a consequence of a conviction in a court of law.

The Convention states that any forced labour is a punishable offence and Member States have the duty to ensure punishment is given and enforced. In 2014, a new legally binding protocol was introduced which was aimed at preventing, protecting and ensuring compensation for, as well as increasing efforts to end, modern slavery.<sup>59</sup>

### 4. Convention No.105: Abolition of Forced Labour

**Adopted:** 25 June 1957

**Entered into force:** 17 January 1959

**Status of ratification (as of May 2023):** 178 Parties

This Convention complements Convention No. 29 and explicitly prohibits forced labour, including compulsory prison labour, in specific cases: ‘as a means of political coercion; for purposes of economic development; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination’.



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## 5. Convention No.138: Minimum Age Convention

**Adopted:** 26 June 1973

**Entered into force:** 19 June 1976

**Status of ratification (as of May 2023):** 173 Parties

This Convention sets the minimum age for work at 15 years and for hazardous work at 18 years. However, the text allows for a certain flexibility to lower this minimum age in case of light work and in Member States 'where the economy and educational facilities are insufficiently developed' (Article 2(4)).

## 6. Convention No.182: Worst Forms of Child Labour

**Adopted:** 17 June 1999

**Entered into force:** 19 November 2000

**Status of ratification (as of May 2023):** 187 Parties

This Convention defines each person under 18 years as a 'child' and aims at eliminating the worst forms of child labour, including slavery, recruitment of child soldiers and child prostitution. The Convention requires States to remove children from the worst forms of child labour and provide for their rehabilitation and social integration.

## 7. Convention No. 100: Equal Remuneration

**Adopted:** 29 June 1951

**Entered into force:** 23 May 1953

**Status of ratification (as of May 2023):** 174 Parties

This Convention enshrines the principle of equal remuneration for men and women for work of equal value. The term 'remuneration' is broadly defined to include the wage and any additional benefits.

## 8. Convention No.111: Discrimination (Employment and Occupation)

**Adopted:** 25 June 1958

**Entered into force:** 15 June 1960

**Status of ratification (as of May 2023):** 175 Parties

This Convention defines discrimination as 'any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation' (Article 1). Each Member State may, after consultation with employers' and workers' organisations, extend the list of prohibited grounds, as some States have, to include, for instance, sexual orientation.

Along with these eight fundamental norms, other ILO Conventions cover a wide range of subjects relevant to SDG 8: employment promotion, vocational guidance and training, employment security, social policy, wages, working time, occupational safety and health, social security, maternity protection, domestic workers, migrant workers, and indigenous and tribal peoples.

Under Article 26 of the ILO Constitution, a complaint may be filed against a Member State for not complying with a ratified convention by another Member State which has ratified the same convention, a delegate to the International Labour Conference or the Governing Body of the ILO. Upon receipt of a complaint, the Governing Body of the ILO may form a Commission of Inquiry responsible for investigating the complaint and issuing a report that recommends measures to be taken to address the failures raised by the complaint.

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## International Convention on the Elimination of All Forms of Racial Discrimination

**Adopted by the UN General Assembly:** 21 December 1965

**Entered into force:** 4 January 1969

**Status of ratification (as of May 2023):** 182 Parties

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) seeks to ensure that human beings enjoy civil, political, economic and social rights without any distinction of race, colour, or national/ethnic origin. The ICERD requires signatory States not only to prohibit but also to eliminate racial discrimination in all its forms in order to guarantee individual rights.

As applicable to Goal 8, under Article 5 of the Convention, States undertake to guarantee the rights of everyone, without discrimination, to work, to just and favourable conditions of work, to equal pay for equal work, and to form and join trade unions.

The Committee on the Elimination of Racial Discrimination takes steps to monitor the work of States towards fulfilling their obligations under the Convention. Periodic reports are submitted to the Committee by State Parties. There are processes for State-to-State complaints, as well as for individual complaints in the event ICERD rights may have been violated by a state party.

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**Under Article 5 of ICERD, States undertake to guarantee the rights of everyone, without discrimination, to work, to just and favourable conditions of work, and to form and join trade unions.**

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## Convention on the Elimination of All Forms of Discrimination against Women

**Adopted by the UN General Assembly:** 18 December 1979

**Entered into force:** 3 September 1981

**Status of ratification (as of May 2023):** 189 Parties

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) defines what constitutes discrimination against women and sets forth an agenda to end it.

Under Article 11, State Parties agree to take all appropriate measures to eliminate discrimination against women in the field of employment (right to work, employment opportunities, free choice of profession, promotion, job security, equal remuneration, paid leave, retirement and

unemployment benefits, maternity leave and prohibition of dismissal on the grounds of pregnancy). Article 13 requires equal access to financial services (bank loans, mortgages and other forms of financial credit). Article 14 is devoted to the specific situation of women living in rural areas and enshrines their right to have access to agricultural credit and loans, and appropriate technology. Article 6 calls upon State Parties to take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women.

State Parties are required to submit reports to the Committee on the Elimination of Discrimination Against Women, which oversees implementation. An Optional Protocol to CEDAW, adopted in 1999, establishes a complaint mechanism open to individuals alleging violation of their rights.<sup>60</sup>

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## International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

**Adopted by the UN General Assembly:** 18 December 1990

**Entered into force:** 1 July 2003

**Status of ratification (as of May 2023):** 58 Parties

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) is a UN treaty which governs the protection of migrant workers and families. CMW aims to prevent and eliminate the exploitation of migrant workers through binding international standards which address issues of treatment, welfare, and human rights of documented and undocumented migrants.

Article 11 prohibits slavery, servitude, forced and compulsory labour. Article 25 enshrines the principle of equal treatment between migrant and national workers with respect to employment and remuneration. Articles 54 and 55 of the ICMW provide for equality of treatment with nationals for

migrant workers with respect to protection against dismissal, unemployment benefits, access to public schemes intended to combat unemployment and access to alternative employment of remunerated activity as well as the right to address to the competent authorities claims of violation of the terms of work by the employer.

Compliance with the Convention is monitored by the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. States must submit reports on the steps they have taken to implement the Convention. The individual complaints mechanism provided for under Article 77 of the Convention is yet to enter into force, as at least 10 States must accept the Committee's competence on this provision. This will then allow the Committee to consider complaints from individuals or groups alleging violations of their rights under the Convention for Migrant Workers.<sup>61</sup>





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## Convention on the Rights of Persons with Disabilities

**Adopted:** 13 December 2006

**Entered into force:** 3 May 2008

**Status of ratification (as of November 2021):** 186 Parties

The Convention on the Rights of the Persons with Disabilities (CRPD) is a UN treaty intended to promote and protect the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities.

As applicable to SDG 8, Article 27 of the CRPD recognises the right of persons with disabilities to work on an equal basis with others, including with respect to conditions of recruitment, hiring and employment, conditions of work, and labour and trade union rights. States also commit to ensure that persons with disabilities are not held in slavery or in

servitude and are protected, on an equal basis with others, from forced or compulsory labour.

Compliance with the CRPD is monitored by the Committee on the Rights of Person with Disabilities. State Parties must submit reports to the Committee on how the Convention is being implemented initially one year after accession, and subsequently whenever the Committee requests. The Optional Protocol to the Convention established a complaint mechanism under which the Committee on the Rights of Persons with Disabilities receives complaints from persons alleging violations of their rights under the ICRPD against governments that have become parties to the Optional Protocol.

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## Convention on the Rights of the Child

**Adopted:** 20 November 1989

**Entered into force:** 2 September 1990

**Status of ratification (as of November 2021):** 196 Parties

The United Nations Convention on the Rights of the Child (CRC) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. It defines a child as ‘any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation’. Compliance is monitored by the UN Committee on the Rights of the Child. The CRC is the most widely ratified international human rights treaty. Notably, the United States is the only country that has signed, but not ratified, this Convention.

As applicable to SDG 8, Article 32 of the CRC recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or development. Under that provision, States are required to undertake legislative, administrative, social and education measures to that effect. In particular they need to provide for a minimum age for employment and regulation of the hours and conditions of employment.

Article 38 is devoted to the specific issue of child soldiers: State Parties must ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities. They should not recruit any person under 15 years of age to their armed forces.

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## Soft law and declarations

### UN Declaration of the Rights of Indigenous Peoples (2007)

Adopted following two decades of negotiations, the Declaration provides a universal framework guaranteeing a minimum standard of well-being for indigenous people around the world.

In relation to decent work, the Declaration, under Article 17, recognises that indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law. Consequently, indigenous peoples should not be subjected to any discriminatory conditions of labour, employment or salary. Specifically, it is required for States to take particular measures to protect indigenous children from being exploited economically and from doing any work that could be harmful or could interfere with the education of the child or be hazardous to his/her development.

The OECD has found that in many countries, including Australia, Canada, Mexico, the United States and New Zealand, indigenous unemployment rates were significantly higher than that of non-indigenous communities. For instance, in its 2019 study, a report from the OECD found that the collective unemployment rate for indigenous persons across all aforementioned countries was on average 16% and 10 percentage points higher than the average unemployment rate for non-indigenous persons.<sup>62</sup>

In relation to SDG 8 target 8.9 on sustainable tourism, Article 11 recalls the right of indigenous peoples to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts or ceremonies. Article 12, concerning spiritual and

religious traditions, recognises indigenous peoples' right to maintain, protect and have access in privacy to their religious and cultural sites.



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## UN Guiding Principles on Business and Human Rights (2011)

The UN Guiding Principles on Business and Human Rights are a set of non-binding guidelines for States and companies to prevent, address and remedy human rights abuses committed when operating businesses. These were proposed by UN Special Representative on Business and Human Rights, John Ruggie, and endorsed by the UN Human Rights Council in June 2011.<sup>63</sup>

The first pillar of the UNGPs reaffirms States' existing obligations under international human rights law to protect against human rights abuses through regulation, policymaking, investigation, and enforcement. The second pillar affirms the corporate responsibility to respect human rights, meaning that businesses should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. The

third pillar addresses both the duty of States to ensure that those affected by human rights abuses related to business can access effective remedy, and the corporate responsibility to remediate any infringement of rights to which they contribute.

Since the adoption of the UNGPs, hundreds of transnational corporations have made public commitments on respecting human rights consistent with the Guiding Principles. Companies have a range of motivations, from proactively committing to operate to the highest standards of social performance and pursue related market opportunities to concerns about the growing reputational and legal risks from not addressing human rights issues in their operations and supply chains.<sup>64</sup>



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## UN Global Compact Principles (2000)

The UN Global Compact is a voluntary initiative to align companies' strategies and operations with universal principles on human rights, labour, environment and anti-corruption. It is the world's largest corporate sustainability initiative to date, with more than 12,000 member companies.<sup>65</sup>

The UN Global Compact has developed ten principles, derived from international human rights law and directly connected to SDG 8, which member companies commit to apply. In accordance to these principles, businesses should:

- i. Support and respect the protection of internationally proclaimed human rights);
- ii. Make sure that they are not complicit in human rights abuses;
- iii. Uphold the freedom of association and the effective recognition of the right to collective bargaining;
- iv. Elimination of all forms of forced and compulsory labour;
- v. Effective abolition of child labour;
- vi. Elimination of discrimination in respect of employment

and occupation;

- vii. Support a precautionary approach to environmental challenges;
- viii. Undertake initiatives to promote greater environmental responsibility;
- ix. Encourage the development and diffusion of environmentally friendly technologies;
- x. Work against corruption in all its forms, including extortion and bribery.

The UN Global Compact is designed to stimulate change and to promote corporate sustainability but the ten principles are not legally binding. Participant companies are expected to publish an annual Communication on Progress on the UN Global Compact website. Those that do not publish their report within a grace period following their deadline are listed as "Non-Communicating" and moved to de-listed status if they do not submit a report during the subsequent six months.

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## ILO Declaration on Fundamental Principles and Rights at Work (1998)

The ILO Declaration commits Member States to respect and promote principles concerning the following fundamental rights, regardless of whether they have ratified the relevant conventions:

- freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of forced or compulsory labour;
- the abolition of child labour; and
- the elimination of discrimination in respect of employment and occupation.<sup>66</sup>



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## ILO Centenary Declaration for the Future of Work (2019)

The ILO Centenary Declaration is a statement that looks at the major challenges and opportunities for the future of work, ranging from technology to climate change, from demographic shifts to the need for new skills. The Declaration calls on all Member States to:

- ensure all people benefit from the changing world of work;

- ensure the continued relevance of the employment relationship;
- ensure adequate protection for all workers; and
- promote sustained, inclusive, and sustainable economic growth, full employment and decent work.<sup>67</sup>

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## ILO Future of Work Initiative (2019)

To celebrate its centenary in 2019, the ILO has launched the Future of Work Initiative to reflect on the profound changes affecting the world of work. A Global Commission, bringing together policy-makers, thinkers, advocates, researchers and social partners, has been set up to provide guidance and recommendations to the ILO and its members.

In its Inception Report published in 2017, the Global Commission identifies four megatrends that affect and will continue to affect work and society:

- i. Globalisation, understood as the internationalisation of production, finance, trade and migration;
- ii. Technological innovations underpinning the Fourth Industrial Revolution, such as big data, 3D printing, artificial intelligence and robotics;
- iii. Demographic shifts, as a massive young population in emerging and developing countries is entering the labour market; and
- iv. Climate change, since continued environmental degradation is likely to destroy jobs and livelihoods.<sup>68</sup>

In its Landmark 'Work For A Brighter Future' Report published

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## The Global Commission calls for a human-centred agenda for the future of work that strengthens the social contract by placing people and the work they do at the centre of policies.

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in 2019, the Global Commission calls for a human-centred agenda for the future of work that strengthens the social contract by placing people and the work they do at the centre of economic and social policy, and business practice. This agenda consists of three pillars of action, which in combination would drive growth, equity, and sustainability for present and future generations:

- Increase investment in people's capabilities;
- Increase investment in the institutions of work; and
- Increase investment in decent and sustainable work.<sup>69</sup>

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## Regional legal and policy frameworks

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### African Union

#### African Charter on Human and Peoples' Rights (1981)

The Organisation of African Unity, now the African Union, adopted the African Charter in 1981, which entered into force in 1986. The African Charter covers civil, political, economic, social and cultural rights and its implementation is overseen by the African Commission on Human and Peoples' Rights.

As applicable to Goal 8, Article 5 prohibits all forms of exploitation and degradation, including slavery and slave trade. Articles 10 and 11 recognises every individual's rights of free association and assembly, which underly the freedom to form or join a labour union. Article 15 encompasses the right to work under equitable and satisfactory conditions and to receive equal pay for equal work.

A particular feature of the African Charter is to recognise rights, not only to individuals, but to peoples. Articles 21 and 22 thereby enshrine the rights of peoples to freely dispose of their wealth and natural resources and to economic, social and cultural development.

Finally, Articles 18 and 27 contain specific provisions protecting women and children, including in the world of work. The Protocol on the Rights of Women in Africa elaborates on the States Parties' obligations to guarantee women equal opportunities in work and career advancement (Article 13) and access to land and financial services (Article 19). Under Article 15 of the African Charter on the Rights and Welfare of the Child, State Parties undertake to protect children from economic exploitation and to ensure the

implementation of ILO standards in both the formal and informal sectors.



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## Association of South East Asian Nations (ASEAN)

### The ASEAN Human Rights Declaration (2012)

The ASEAN Human Rights Declaration was adopted to reaffirm the adherence of ASEAN member States to the respect of human rights and fundamental freedoms, as well as democracy, the rule of law and good governance. However, the Declaration has been criticised by ASEAN civil society organisations and prominent international NGOs for falling short of international human rights standards.

As applicable to SDG 8, Article 13 prohibits servitude and slavery. Article 17 recognises the right to work in just, decent and favourable conditions, to form or join trade unions and calls upon States to protect children from social and economic exploitation.<sup>20</sup>

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## Council of Europe

### European Convention on Human Rights (1953)

State Parties to this Convention are obligated to protect the basic civil and political rights of not only citizens of the State but also all persons within the jurisdictions of that State. Specifically, Article 4 of the Convention prohibits slavery and

forced labour, and Article 11 allows for freedom of assembly and association, including the right to form and join trade unions.<sup>21</sup>

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### European Social Charter (1996)

The European Social Charter is a Council of Europe treaty that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights, which refers to civil and political rights. It guarantees a broad range of everyday human rights related to employment, housing, health, education, social protection and welfare. The Charter places specific emphasis on the protection of vulnerable persons such as elderly people, children, people with disabilities and migrants. It requires that enjoyment of these rights be guaranteed without discrimination. The

Charter is seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.<sup>22</sup>

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## European Union

### The Treaty on European Union (2009, amends Treaty of Rome, 1957)

The Treaty on European Union (TEU) sets out the EU's purpose, democratic principles, institutions and governance framework, and operates alongside the Treaty for the Functioning of the European Union. Article 3(3) of the TEU provides that the EU shall work for the sustainable

development of Europe based on balanced economic growth and price stability, aiming for full employment and social progress. It also aims to combat social exclusion and discrimination, promote social justice and equality between women and men.<sup>73</sup>

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### Charter of Fundamental Rights of the European Union (2009)

The Charter of Fundamental Rights enshrines certain political, social and economic rights for EU citizens and residents into EU primary law. It offers strengthened protection of fundamental rights for EU citizens. For example, Title IV

on Solidarity protects workers' rights to information and consultation, collective bargaining, fair and just working conditions, prohibits child labour and requires youth workers to be given appropriate working conditions.<sup>74</sup>





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## Organisation of American States (OAS)

### Organisation of American States Charter (1948)

The Organisation of American States Charter entered into force in 1951, with its key purposes being to strengthen the peace and security of the continent, promote the economic development of Member States, and to eradicate extreme poverty.

To address SDG 8, under Article 34 of the OAS Charter, Member States agree to take actions to achieve:

- Substantial and self-sustained increase of per capita national product;
- Equitable distribution of national income;
- Accelerated and diversified industrialisation;
- Fair wages;
- Employment opportunities;
- Acceptable working conditions for all; and
- Expansion and diversification of exports.

Under Article 46 of the OAS Charter, Member States recognise

that it is necessary to harmonise social legislation to accelerate regional integration in Latin America, particularly with respect to labour and social security, so that the rights of workers are equally protected. Nevertheless, the wording of the Charter denotes obligations of means for the Member States rather than rights recognised to individuals.



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### OAS American Convention of Human Rights (1969)

The OAS American Convention of Human Rights entered into force in 1978. Like the OAS Charter, it also works towards sustainable development, in particular improvements to employment and the ending of forced labour.

The OAS Convention of Human Rights prohibits slavery, slave trade, traffic in women, and forced or compulsory labour (Article 6) and establishes the right of free association, including for economic and labour purposes (Article 16).

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## Multilateral Trade Agreements

### Comprehensive and Progressive Agreement for Trans-Pacific Partnership (2018)

CPTPP is a free trade agreement between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Vietnam. It incorporates, by reference, the provisions of the Trans-Pacific Partnership Agreement (signed but not entered into force), with the exception of a limited set of suspended provisions.

All CPTPP Parties are ILO members and recognise the importance of promoting internationally recognised labour rights. In the Labour Chapter of the CPTPP, Parties agree to adopt and maintain in their laws and practices the fundamental labour rights as recognised in the ILO 1998 Declaration, namely:

- Freedom of association and the right to collective bargaining;
- Elimination of forced labour;
- Abolition of child labour and a prohibition on the worst forms of child labour; and
- Elimination of discrimination in employment.

The Parties also agree to have laws governing minimum wages, hours of work, and occupational safety and health.<sup>25</sup>

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### Agreement between the United States of America, United Mexican States and Canada (USMCA) (2020)

USMCA is a free trade agreement between United States, Mexico and Canada. It largely maintains or updates provisions from its predecessor, NAFTA. The agreement includes a new Labour Chapter that prioritises labour obligations by including them in the main text of the USMCA Agreement (labour issues were part of a side agreement in the previous iteration of NAFTA).<sup>26</sup>

Among its provisions, the Labour Chapter requires the Parties to adopt and maintain in law and practice labour rights as recognised by the ILO, to effectively enforce its labour laws, and not to waive or derogate from its labour laws. It also includes new provisions that require the Parties to take

measures to prohibit the importation of goods produced by forced labour, address violence against workers exercising their labour rights, address sex-based discrimination in the workplace and ensure that migrant workers are protected under labour laws.

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## Comprehensive and Economic Trade Agreement (CETA) (2017)

CETA is a free trade agreement between Canada and EU. CETA is aimed at boosting trade between the EU and Canada. CETA features some of the strongest commitments offered by the EU on the respect for labour rights and sustainable development.

In Chapter 23 on Trade and Labour, EU and Canada commit to respecting the labour standards set by the ILO, and to ratifying and implementing the ILO's fundamental

conventions. The Chapter protects Parties' right to regulate on labour matters, but prevents the Parties from ignoring or lowering labour standards to boost trade. It ensures that non-governmental organisations are involved in implementing the chapter's provisions. It promotes cooperation with the ILO. Finally, it establishes an enforcement mechanism to ensure the Chapter's provisions are put into practice.<sup>zz</sup>



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## Examples of relevant national legislation

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### Costa Rica

#### Law No.7600 on Equality for Persons with Disabilities (1996)

This law imposes obligations on the State to advance the rights of persons with disabilities, and guarantees equality in areas such as education, health, and work.

As applicable to SDG 8, Article 23 of Law 7600 provides that the State must guarantee all people with disabilities the right to employment appropriate to their personal

circumstances and needs. Under Article 24 of Law 7600, it is an act of discrimination for a person to be denied access to employment and the use of productive resources on the grounds of his or her disability. Under Law 7600, it also is discriminatory to employ recruitment procedures that are not adapted to the situations of applicants with disabilities.<sup>78</sup>

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### United Kingdom

#### The Modern Slavery Act (2015)

Entered into force in 2015, the Act is the first of its kind in Europe, specifically addressing slavery and trafficking in the 21st century. The Act, which enhances support and protection for victims and encourages businesses to take action to ensure their end-to-end supply chains are slavery free,<sup>79</sup> is split into the following seven parts:

- Part 1 unites slavery and trafficking offences, and introduces tougher rules for sentencing and punishments.
- Part 2 establishes two new civil orders: the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Order, which enable the courts to impose both restriction and positive requirements upon those convicted of a relevant offense.<sup>80</sup>
- Part 3 provides for new maritime enforcement powers in relation to ships.
- Part 4 establishes the Office of the Independent Anti-Slavery Commissioner and its duties.
- Part 5 provides for the protection of victims including the creation of a statutory defence for victims of slavery or trafficking who commit a crime and details measures which can be taken to protect witnesses.
- Part 6 requires businesses having an annual turnover over £36 million<sup>81</sup> to publish an annual statement indicating the steps taken to ensure that slavery or human trafficking are not taking place in their supply-chains.

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- Part 7 obliges the Secretary of State to publish a paper on the role of the Gangmasters Licensing Authority (now Gangmasters and Labour Abuse Authority), which protects vulnerable and exploited workers, and other related general matters.<sup>82</sup>

The UK Home Office has continued to update the Act, including by publishing additional best practice guidance.<sup>83</sup> The Modern Slavery Registry<sup>84</sup> (which is a portal run by a group of NGOs) and TISCreport.org<sup>85</sup> (which is an open data register run by an independent UK social enterprise) are currently compiling statements made by commercial organisations. In March 2020, the UK Government published its own modern slavery statement, setting out 13 goals for the UK government to achieve, followed up by a progress report on 25 November 2021 reporting on the progress made by government departments in implementing those goals.<sup>86</sup>

The UK Home Office also conducted a consultation on

transparency in supply chains and published its response to the results in September 2020.<sup>87</sup> In its response, the UK Home Office has committed to a set of measures and changes to legislation to support the Act's transparency provisions. These measures include:

- i. Making the six recommended reporting areas in annual statements mandatory;
- ii. Requiring statements to include both the date of Board approval and the Directors' signatures;
- iii. Introducing a new Government-run centralised reporting service;
- iv. Introducing a single reporting deadline;
- v. Requiring group annual statements to name each of the group entities covered by that statement.

Public bodies with budgets of over GBP 36 million will also now be required to produce an annual statement under the Act.

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## France

### **Due Diligence Law (2017) (Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre)**

According to this law, large companies having their headquarters in France must develop and publish a 'due diligence plan' to identify risks and prevent violations on human rights, fundamental freedoms, health and safety, and the environment within their own activities and the ones of their suppliers and subcontractors.<sup>88</sup>

Unlike the UK Modern Slavery Act, this law covers all human rights, including respect for working conditions, as well as environmental regulations.

The law provides for two judicial mechanisms to ensure its implementation. Article 1 states that any concerned party (including trade unions and human rights or environmental NGOs) can approach the courts to enjoin the company, if necessary under financial penalty, to respect its obligation and publish a 'due diligence plan'. According to Article 2, the company may also be held liable and have to pay damages if victims can demonstrate that a prejudice occurred as a result of the company's failure to comply with its 'due diligence' obligations.

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## Germany

### Act on Corporate Due Diligence Obligations in Supply Chains (2021)

The Act imposes, for the first time, a binding obligation on companies to establish, implement and update procedures to improve compliance with core human rights and certain environmental provisions in supply chains.

As part of their due diligence duties, companies must establish an appropriate and effective risk management approach in relation to both their own business, as well as that of any direct suppliers, and conduct an appropriate risk analysis. Appropriate preventive measures, specifically in respect of selection of suppliers, supply agreements and implementation of control mechanisms, must immediately be adopted upon identifying a risk. In addition, companies must implement an internal complaints procedure or grievance mechanism that enables persons to notify potential risks or violations of protected human rights or environmental obligations arising from the company's economic activities

in its own business and/or those of any of its direct or indirect suppliers. All notifications must be followed up, and companies must also establish written rules of procedure and make them publicly available.

As part of its preventive management, companies must issue a statement on their human rights strategy. Responsibility for this statement rests with the company's management. In addition, companies must prepare an annual report on their compliance with their due diligence obligations during the previous fiscal year.

The Law states that a violation or non-compliance with obligations arising under the Act may result in monetary fines but will not give rise to civil law liability specifically under the Act.<sup>89</sup> (Civil law liability may follow from other general legal provisions).

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## Australia

### Criminal Code 1995 (Commonwealth Act)

In addition to Australia's national and state-level modern slavery legislation, the Australian Commonwealth Criminal Code criminalises the forcing of someone to enter into, or

remain in, forced labour or the conducting of a business which involves the forced labour of another person(s).



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## Modern Slavery Act (2018)

The Modern Slavery Act requires large Australian entities and foreign entities carrying on business in Australia to report annually on the risks of modern slavery in their operations and supply chains and the actions taken to address those risks. The primary objective of the Act is to take proactive and effective action to address modern slavery.

Each reporting entity is required to submit an annual statement and describe:

- The structure, operations and supply chains of the reporting entity (including those of any entity that they 'control' as defined under the Corporations Act 2001 (Commonwealth Act));
- The modern slavery risks in the operations and supply

chains of the reporting entity and any entity it owns or controls;

- The actions the reporting entity and any entity it owns or controls have taken to assess and address those risks, including due diligence and remediation processes;
- How the reporting entity assesses the effectiveness of those actions including, for example, establishing regular reviews of processes, internal audits and compliance monitoring, and requiring suppliers to report back on their compliance and initiatives; and
- The process of consultation with any entity that the reporting entity owns or controls and provide any other relevant information.<sup>90</sup>

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## South Africa

### Black Economic Empowerment Act (2003)

The broad-based Black Economic Empowerment Act is the legislative framework for the promotion of black economic empowerment and the constitutional right to equality. It is aimed at increasing broad-based employment and effective participation of Black people (African, Coloured and Indian people who are South African citizens) in the South African economy. It has also introduced a national policy on broad-based economic empowerment to promote economic unity of the nation, protect the common market, and promote equal opportunity and access to government services.<sup>91</sup>



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## Brazil

### Brazil Central Bank Disclosure Rule on Social, Environmental and Climate-related Risks and Opportunities (2021)

The Brazilian Central Bank has introduced an updated set of rules on disclosure for social, environmental and climate-related risk management by regulated financial institutions. The new risk management rules focus on addressing potential losses for a financial institution, whether due to its own activities or the activities performed by borrowers, suppliers, controlled entities, and other stakeholders.

In addition to enhancing the definitions of social risk, environmental risk, and physical and transition climate-related risks, the proposal seeks to integrate these risks to the framework already established for the management of other traditional risks (credit, market, liquidity and operational). Minimum criteria are established for the identification, measurement, evaluation, monitoring, reporting, control, and mitigation of the adverse effects arising from the interaction between these risks.<sup>92</sup>



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## Singapore

### Prevention of Human Trafficking Act (2014)

The main legislation targeting modern slavery in Singapore is the Prevention of Human Trafficking Act (PHTA). The PHTA was introduced in 2014 to deter and punish trafficking in persons and to protect and assist trafficked persons, through the introduction of stiff criminal penalties and increased enforcement efforts.<sup>93</sup> While it criminalises forced labour, and sex and labour trafficking, it does not contain a reporting

requirement for corporates and does not indicate that corporates may be considered an offender and penalised under the scope of the PHTA.



## United States of America

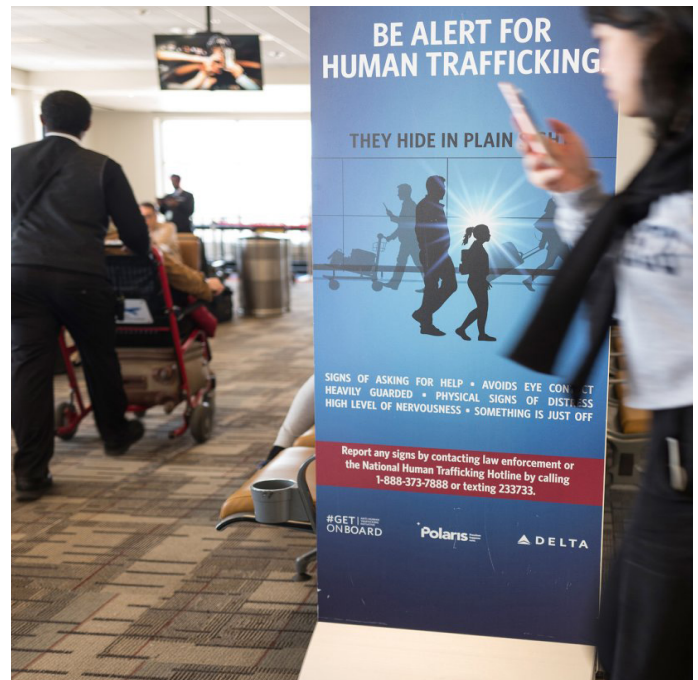
### Federal Acquisition Regulation Rule on Combating Trafficking in Persons (2015)

In 2015, the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration issued a final rule amending the Federal Acquisition Regulation, which is intended to significantly strengthen protections against human trafficking in connection with government contracts. Under this Rule, government solicitations and contracts are required to prohibit contractors, contractor employees, subcontractors, and their agents from:

- Procuring commercial sex acts during the period of contract performance;
- Using forced labour in the performance of the contract;
- Destroying, concealing, confiscating or otherwise denying access by an employee to the employee's identity or immigration documents;
- Using misleading or fraudulent practices during the recruitment of employees or offering of employment and using recruiters that do not comply with local labour laws;
- Charging recruitment fees to employees;
- Under certain circumstances, failing to provide or pay for return transportation upon the end of employment for employees brought into the country for the purpose of working on the contract or subcontract;
- Providing or arranging housing that fails to meet the host country housing and safety standards; or

- If required by law or contract, failing to provide an employment contract, recruitment agreement or other required work document in writing, and failing to satisfy certain other related requirements.

Failure to comply with these requirements may result in suspension of contract payments until appropriate remedial actions have been taken, termination of the contract, or loss of award fees for the performance period in which the government determined contractor non-compliance.<sup>94</sup>



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## Uyghur Forced Labour Prevention Act (H.R. 1155)

The Uyghur Forced Labour Prevention Act was introduced in February 2021 and was signed into law on 23 December 2021. The act includes as its purpose “[e]nsuring that goods made with forced labor in the Xinjiang Uyghur Autonomous Region of the People’s Republic of China do not enter the United States market”.<sup>95</sup> The Act requires inter alia that the President will submit a report to the relevant congressional committees not later than 180 days after the date of the Act and at least annually thereafter, identifying foreign persons knowingly engaged, responsible for, or facilitating forced

labour of the named communities, or providing financial, material or technological support for efforts to contravene US law regarding the importation of force labour goods from the region. Sanctions will then be imposed with respect to each individual identified. The Act also amends the Securities Exchange Act of 1934 such that disclosure for issuers under Section 13 would include disclosure of certain activities relating to the region.



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## Transparency in Supply Chains Act (2010) (Local Legislation: California)

California is the first state in the United States to enact a supply-chain transparency law aimed at eradicating human trafficking and modern slavery. The Act requires large retail sellers and manufacturers doing business in California to

disclose efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale.<sup>96</sup>

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# Insights for the Legal Profession

## a) Examples of Relevant Cases and Legal Proceedings

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### **University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia, Sweden [2020] No.'s 124-138/2016)**

University Women of Europe (UWE), an international NGO, lodged a series of complaints before the European Committee of Social Rights (ECSR), established by the Council of Europe, on equal pay and equal opportunity against the 15 states that accepted the complaints procedure. The ECSR's decisions, adopted in December 2019, identify clear and strong standards in the field of equal pay and require the right to equal pay be guaranteed in law. To this end, the ECSR has identified the following obligations for signatory States:

- To recognise the right to equal pay for equal work or work of equal value in their legislation;
- To ensure access to effective remedies for victims of pay discrimination;
- To ensure and guarantee pay transparency and enable pay comparisons; and
- To maintain effective equality bodies and relevant institutions in order to ensure equal pay in practice.

Furthermore, the ECSR held that the right to equal pay implies the obligation to adopt measures to promote it. This obligation has two elements: (i) collecting reliable and standardised data to measure and analyse the gender pay gap and (ii) designing effective policies and measures aimed

at reducing the gender pay gap on the basis of an analysis of the data collected.

Fourteen out of the 15 States were found to be in violation of one or more of the above-mentioned aspects of the obligation to guarantee the right to equal pay and the right to equal opportunities in the workplace.

The ECSR acknowledged that the gender pay gap is no longer primarily a result of discrimination, but arises mainly from differences in the so-called "average characteristics" of women and men in the labour market. These differences result from many factors, such as horizontal segregation, where there is the concentration of one sex in certain economic activities (sectoral gender segregation) or the concentration of one sex in certain occupations (occupational gender segregation), as well as vertical segregation. The decisions highlight the positive obligations of States to tackle these phenomena in the labour market, including by promoting the advancement of women in decision-making positions within private companies. This obligation may entail the introduction of binding legislative measures to ensure equal access to management boards of companies, including by setting specific quotas or targets in both public and private sector that will promote parity.

The ECSR noted that measures taken by some States in recent



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years have led to some progress in reducing the gender pay gap, but the progress is slow. The ECSR's decisions clearly demonstrate that problems and practices, such as segregation in the labour market, lack of pay transparency,

secrecy regarding pay levels, obstacles to access effective remedies and retaliatory dismissals continue to exist and prevent full realisation of the equal pay principle.<sup>97</sup>

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## Minority Rights Group International and others v. Mauritania [2017] (ACERWC)

Two NGOs, Minority Rights Group International and SOS-Esclaves, submitted a complaint to the African Committee of Experts on the Rights and Welfare of the Child against Mauritania, regarding two brothers, Said and Yarg Salem. The two brothers were enslaved in Mauritania, and their former masters were prosecuted before the local courts but

given extremely lenient sentences. The Committee found that Mauritanian authorities violated several provisions of the African Charter on The Rights and Welfare of the Child (Articles 1, 3, 4, 5, 11, 12, 15, 16 and 21) by failing to prevent, prosecute, punish and remedy the enslavement of the two boys.<sup>98</sup>





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## **V.C.L. AND A.N. v. The United Kingdom [2021] 74603/12 and 77587/12**

The European Court of Human Rights' (ECtHR) landmark judgment in this case sets a new standard on the practical application of the non-punishment principle in cases involving victims of trafficking and modern slavery who commit unlawful acts as a direct consequence of their trafficking, enslavement or exploitation.

The applicants are Vietnamese nationals and minors who were victims of modern slavery and were found working in cannabis factories in the UK. After they were charged for producing cannabis, a competent authority in the UK identified them as victims of trafficking. The Crown Prosecution Service disagreed with this assessment and pursued their prosecution of these persons. The applicants pleaded guilty to the charges and were convicted. Their appeals against the convictions were dismissed by the UK's Court of Appeal.

The applicants then brought this case against the UK before the ECtHR, claiming breach of their rights under Articles 4 and 6 of the European Convention on Human Rights. This was the first time the ECtHR had been called upon to consider if, and when, a case concerning the prosecution of a victim of trafficking may raise issues under the European Convention of Human Rights.

The ECtHR held that the UK failed to fulfil its positive obligation under Article 4 to take operational measures to protect the applicants who were recognised by the competent authority as potential victims of trafficking. Furthermore, it found that the failure of authorities to act in line with their positive obligations under Article 4 had a prejudicial bearing on the applicants' ability to exercise their right to a fair trial under Article 6. There was sufficient evidence to conclude that the authorities had been under

a positive obligation to discharge duties of protection and investigation, and that their failure to do so in a timely manner had ultimately prejudiced the applicants' defence by preventing them from securing evidence which may have constituted a fundamental aspect of it.

For the prosecution of a (potential) victim of human trafficking to demonstrate respect for the freedoms guaranteed by Article 4, the ECtHR held that early identification was of paramount importance. As soon as the relevant authorities have a credible suspicion that an individual suspected of having committed a criminal offence might have been trafficked or exploited, the individual should be assessed promptly. A qualified person must conduct a trafficking assessment before any decision is taken whether to prosecute a potential victim.<sup>99</sup>



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## **Fair Work Ombudsman v. Shaik [2016] FCCA 2345; Director of Public Prosecutions v. Shaik [2020] VCC 909**

In 2012, Farok Shaik offered the applicants, a migrant couple, full-time employment to work at the Indian restaurants he managed in Victoria, Australia, and promised to sponsor their visa applications. The applicants were forced to work long hours, live in a store room above the restaurant, were threatened with withdrawal of their visa sponsorship and violence and were severely underpaid. The civil case concerning the underpayment of wages was heard in the Australian Federal Circuit Court in 2016 and the criminal case relating to the forced labour offence under s 270.6A of the Criminal Code Act 1995 (Cth) was decided by the County Court of Victoria in 2020.

In 2016, the Federal Circuit Court found that Shaik had breached the Fair Work Act 2009 (Cth) and had underpaid the applicants over AUD 85,000 between 2012 and 2013. In 2019, Shaik pleaded guilty to causing a person to remain in forced labour, breaching s 270.6A of the Criminal Code Act 1995 (Cth) which makes the forcing of someone to enter into or remain in forced labour or the conducting of a business

which involves the forced labour of another person(s) an offence punishable by imprisonment for up to 12 years.<sup>100</sup>



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## **Wilson v UK [2002] IRLR 568**

The applicants, Mr Wilson and Mr Palmer, were employees who had been offered a pay rise if they agreed to sign new contracts giving up the right to have terms and conditions set by collective bargaining. Both individuals refused to sign and were denied the pay increase. Together with their unions, Mr. Wilson and Mr Palmer complained that their right to take part in trade union activities was violated.

After a long series of appeals through the UK court system,

the European Court of Human Rights held that, 'by permitting employers to use financial incentives to induce employees to surrender important union rights, the United Kingdom failed in its positive obligation to secure the enjoyment of the rights under Article 11 of the Convention'.

To comply with the judgment, the United Kingdom Parliament adopted the Employment Relations Act 2004.<sup>101</sup>

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## b) Legal context and challenges

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During the negotiations to finalise the SDGs, a group of leading economists addressed an open letter to the UN Secretary General urging him to champion the cause of economic growth as the foundation stone of achieving poverty eradication.<sup>102</sup> They were influential, since the first target of SDG 8 is to achieve sustained economic growth, with a minimum GDP growth rate of 7% for the least developed countries. However, other economists and activists strongly criticised this focus on economic growth, arguing that, based on the growth rates seen in recent decades, it would take a century for poverty to disappear and that, even if it were possible in a shorter timescale, such growth would make our planet uninhabitable.<sup>103</sup> Still others had already made the point that GDP is a deeply flawed indicator of economic performance and social progress.<sup>104</sup>

There are many challenges to overcome before reaching the SDG 8 ambition to reconcile economic growth with respect for the workers' rights and the environment.

For a long time, economic progress has been achieved at the expense of environmental sustainability. With more natural usage being used and more waste generated than the earth can regenerate and absorb, the relationship between economic development and environment has shifted. Climate change, soil degradation, atmospheric pollution, and natural disasters are expected to affect the economy.

Technological progress in artificial intelligence has accelerated the deployment of robots in industries worldwide. While this evolution can potentially bring large productivity gains, it also raises concerns that it will be detrimental to employment rates.

For the past several decades, global supply chain (GSC)-related employment has expanded, not only in the manufacturing sector in developing countries but in the services sector in both emerging and developed countries. Participation in GSCs can boost productivity but the effects for the workers on wages and job quality are mixed.<sup>105</sup> Human and labour rights violations occur in a range of industries where production has been outsourced to suppliers in the developing world, as well as in developed countries.

Confronted with these transformations in the global economy, the legal framework is adapting. Laws are being adopted that require transnational companies to be transparent and vigilant regarding what occurs in their supply chain. There is an increased emphasis on active corporate governance, due diligence, and internal controls as a means to effectively manage significant human rights and workers' rights. These due diligence obligations are sanctioned by means of administrative offence proceedings or monetary fines, and subject companies to civil liability risks if they fail to comply with due diligence and reporting obligations.

Lawyers are key players in dealing with these developments. Every day, employment lawyers defend the rights of workers while commercial lawyers advise their business clients on compliance with environmental and social regulations.

Reliance on human rights law can prove problematic. While many international treaties provide for an enforcement mechanism, standing requirements such as demonstrating exhaustion of national remedies, frequently result in dismissals or lengthy delays. Moreover, most complaint mechanisms, including the ILO Commissions of Inquiry, lack substantial enforcement power to obtain compliance.<sup>106</sup>



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## c) So, what can lawyers do?

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This section highlights several avenues through which the legal community can build its understanding of the SDGs, encouraging the profession to use its expertise and influence

to contribute to the objective of decent work and economic growth for all.

### Learn and educate

The scope of SDG 8 is particularly broad and encompasses multiple legal issues, such as modern slavery, labour standards, and global supply chains. Lawyers can enhance their understanding of these topics. They can also study policies and programmatic efforts to promote sustainable growth and decent work, at local, national, regional and

international levels. The Business & Human Rights Resource Centre is a valuable source of information for companies in a wide range of sectors, and for those who advise them on legal issues.<sup>107</sup>





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## Integrate

The adoption of the UN Sustainable Development Agenda provides impetus for law firms, corporate legal departments, and other law-related organisations to examine and re-align their own policies and practices. For instance, when advising their business clients, commercial lawyers should draw attention to the growing legal requirements related to human rights due diligence and disclosure in their operations

and supply chains. Lawyers should take into consideration relevant applicable laws, such as the UK Modern Slavery Act or the French Due Diligence Law, as well as any applicable non-binding guidelines, like the UN Guiding Principles on Business and Human Rights<sup>108</sup> and the OECD Guidelines for Multinational Enterprises.<sup>109</sup>

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## Act

Many law firms are working to make their pro bono work more strategic, collaborative and sustainable. By aligning their work with the SDGs, lawyers can be confident that they are taking practical steps towards a comprehensive and inclusive roadmap for sustainable development. This can help firms to establish and develop collaborative, crosssector partnerships with other organisations that are working towards the same goals. When considering international pro bono, law firms should establish relationships with NGOs and local partners that can provide insight on the context and the national legal environment. Such partnerships will not only help to broaden the impact of the firm's pro bono work, but also ensure that it responds to the local context and needs.

Developing a pro bono strategy with clearly identified goals, enables firms to assess the effectiveness of their pro bono work over time and thereby increase its impact. The SDG framework offers law firms the opportunity to effectively measure and demonstrate their positive impact towards globally recognised goals. There is wide recognition that pro bono work which is focused on progressing long-term goals

and implemented in partnership with relevant organisations will lead to more sustainable results than ad hoc pro bono assistance.

The SDGs thus present a compelling opportunity for law firms, corporate legal departments and other lawyers to expand their pro bono legal activities domestically and abroad.

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**Developing a pro bono strategy with clearly identified goals, enables firms to assess the effectiveness of their pro bono work over time and thereby increase its impact.**

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## Draft Legislation

Lawyers and law firms can support the drafting of development-oriented legislation that supports decent job creation, entrepreneurship, and encourages the formalisation of micro-, small- and medium-sized enterprises. Key areas of corporate-commercial law that can support economic growth and development include:

- Corporate law itself;
- Securities law;
- Laws relating to the sale of goods and services;
- Competition law; and

- Corporate insolvency law.

Comparatively small amendments to corporate law can contribute significantly in terms of enterprise growth. For instance, small enterprises generally do not own real property and so it can be difficult for them to obtain loans for start-up costs or investment. Changes to financial laws or policies could remove this barrier. In India, a 2015 amendment to the Companies Act eliminated a minimum capital requirement for company establishment.<sup>110</sup> It is no longer a requirement for entrepreneurs who want to start a limited liability company locally to deposit a significant amount of local currency.

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## Litigation

Litigation can also have a transformative effect. Law firms and individual lawyers specialised in labour and employment law can represent, sometimes on a reduced-fee or pro bono basis, individuals or unions seeking to enforce their rights before national fora, or even submit complaints to regional

or international human rights mechanisms. NGOs and civil society organisations fighting against modern slavery, child labour and child soldiers can benefit from the expertise of legal specialists through their legal research and analysis, advocacy or assistance in prosecuting rights abuses.

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