

SDG 10: REDUCED INEQUALITY



A LEGAL GUIDE

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

Disclaimer

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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



The SDG Legal Initiative

There are now less than six 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. It provides 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. It presents clear examples of the actions that lawyers can take to help achieve each goal.

Role of law in achieving Reduced Inequalities

The core tenet of reducing inequalities underpins the entire SDG Agenda. As the guiding principle of the UN Sustainable Development Goals, to 'leave no one behind,' SDG 10 embodies a notion key to sustainable development, highlighting the universal commitment for a world that benefits all persons. It is in this vein that SDG 10 focuses on the realisation of equal development through non-discriminatory practices, policies and laws.

Indeed, the COVID-19 pandemic attests to this notion, demonstrating just how fragile economic systems and enforcement capabilities can be where inequalities prevail. Countries with less robust social welfare protections, weaker

health systems and greater gender inequalities, were hit with greater setbacks in economic and social progress as a result of the pandemic, highlighting the importance of equality in developing resilience as well as growth. These setbacks caused the largest rise in income inequality in three decades¹; a clear example of the need for inclusivity as we build ourselves back.

“More than 70 per cent of the world’s people are living with rising income and wealth inequality. The 26 richest people in the world hold as much wealth as half the global population.” António Guterres, Secretary-General of the United Nations

Equality before the law is a basic tenet of access to justice and a fundamental principle of the rule of law. Only by advocating for all persons to be treated equally before the eyes of the law can national and international legislative frameworks hold

legitimacy. As SDG 10 examines the ways in which countries can safeguard a baseline level of income for all pockets of society, promote equal access to opportunities that overcome past disadvantage and bolster inclusion in economic and financial institutions; lawyers should begin to think about how legal institutions and frameworks can safeguard equality before the law, and how legal professionals can safeguard access to justice, free from discrimination.

Yasmin Batliwala MBE

Chief Executive



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The Sustainable Development Goals

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.

Key terms

SDG 10 – Reduce inequality within and among countries

In the context of SDG 10, the following terms mean:²

‘Discrimination’ means any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on discrimination prohibited by international human rights law and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

‘Inequality’ refers to ‘the state of not being equal, especially in status, rights and opportunities.’ Many authors distinguish two different types of inequality: (1) inequality within countries, which in itself typically manifests (a) socio-economic inequality and/or (b) status-based inequality,

and (2) inequality among countries, which includes income inequality and even inequality in political power as observed within international organisations (see target 10.5).

‘Socio-economic inequality’ refers to a form of inequality that is broader than that of economic inequality, which does not only mean disparities in income and living conditions, but also disparities arising from other social traits such as ethnicity, gender, culture and education.

‘Status-based inequality’ refers to a form of inequality of rights where people are hindered in or prevented from exercising or asserting their fundamental and free-standing right to non-discrimination as well as their right to the equal enjoyment of other rights.



Overview of the targets

SDG 10 looks to the equitable distribution of resources amongst the global population towards shared prosperity, both within and between countries. To do so, shared prosperity requires social cohesion and a respect for all living persons irrespective of their gender, sexuality, race, social subset, economic standing, religion, disability and more. It speaks to the human rights and fundamental freedoms that human beings are entitled to in all aspects of public life – be it political, economic, social or cultural – looking to the roles and responsibilities that states, businesses and laws play within this. Through inclusive financial flows, social welfare, development assistance and fiscal policies (to name a few) SDG 10 recognises the benefits of inclusive growth to sustainable economic development; promoting shared growth as the recipe for long-term value creation.



Despite considerable gains in the fight against poverty since 2000, economic inequalities have continued to widen. Since the 2008 financial crisis, inequality in wealth has been rising globally. In 2022, the bottom 50% of adults in the global wealth distribution accounted for less than 1% of total global wealth. By contrast, the top 10% of adults owned 81% of global wealth while the top 1% alone owned 45% of all household assets. Whilst overall wealth inequality fell for the first time since the 2008 crisis, accompanied by a 3% increase in global median wealth,³ 2022 also brought with it the aftermath of the pandemic.

The COVID-19 pandemic contributed to a sizeable increase in income inequality among countries; undoing the work of earlier, modest gains that had been made through preferential trade status for lower-income countries and decreased transaction costs for remittances. Since the pandemic however, the lowest groups of wealth holders have been forced to draw significantly on their savings and/or incur higher debt, further exacerbating inequality gaps.⁴ According to the International Monetary Fund, the pandemic has caused a leap in between-country inequality. Steady progress in reducing inequality made over the past decade, measured against the Gini and Theil indices subsequently showed a return to early 2010 levels.⁵

The continued rise in inequality in some countries, and the sustained level of inequality in others, challenges the progress of development, stunts the eradication of poverty and causes uncertainty within social, political and economic systems. It follows then, that reducing inequality is essential to long-term economic, political and social prosperity and growth globally. It is no surprise therefore that the 2030 Agenda for Sustainable Development, not only devotes a specific goal to reducing inequalities globally (SDG 10) but embeds this firmly

as a guiding principle to 'Leave no one behind'. In doing so, it remedies the omission contained within the earlier Millennium Development Goals (MDGs) which, by contrast, did not extend to addressing inequalities in general.⁶

In line with the SDG Agenda's guiding principle, there is a growing consensus that, unless economic growth is inclusive, it will not be sufficient to reduce poverty. International financial institutions, such as the World Bank and the International Monetary Fund, now recognise that inequality jeopardises economic growth and social cohesion.⁷ For example, countries

with high inequality tend to invest less in public services such as infrastructure, technology and education, which are vital for long-term prosperity and growth.

Herein, discrimination remains a driving force in perpetuating and reinforcing inequalities, and is often a direct cause and consequence of poverty.⁸ Indeed, SDG 10, with its focus on reducing inequalities both within countries and in global systems, is important for the achievement of all the SDGs, and similar to SDGs 16 and 17 presents a universal framework for sustainable development.



TARGET 10-1

By 2030, progressively achieve and sustain income growth of the bottom 40% of the population at a rate higher than the national average.

In developed countries, inequality has been rising since the 1980s. At the beginning of the 1980s, among the OECD countries, the average income of the richest 10% was 7 times higher than that of the poorest 10%; and by 2010, was 9½ times higher.⁹ This trend first started in the United States, the United Kingdom and Israel but, since the 2000s, the gap between rich and poor is also widening in traditionally low-inequality countries, such as Germany, Denmark or Sweden.¹⁰

In developing countries, between 1990 and 2010, income inequality increased by 11%, resulting in over 75% of 2010 households living in a more unequal society in terms of income distribution.¹¹ The latest estimates from 2022 show that in some countries, as much as 25% of the population live on less than half the national median income. While this figure varies widely, impacts have certainly been exacerbated

by the COVID-19 pandemic; albeit in some countries (e.g. Brazil), successful social transfer programmes targeted toward society's poorest, served to reduce this impact.¹²

The indicator for Target 10.1 measures growth in household expenditure and income per capita of the bottom 40% of the population, mirroring the measure of progress used by the World Bank.¹³ The underlying justification for this metric is that, when the incomes of the bottom 40% grow faster than the average, relative inequality decreases. According to the 2022 SDG Extended Report,¹⁴ half of the world's countries have achieved this metric. However, regional disparities exist, with many countries in South Asia, Central Asia and Sub-Saharan Africa failing to reach this target, suggesting a localised increase in inequality. It should be noted that data on this indicator is insufficient in many countries, and as such, reliable estimates for impacts of the COVID-19 pandemic will likely be obscured for several years to come. Moreover, this indicator has been criticised for not addressing the current concentration of wealth to the richest 1% or the absolute gap between the poorest and the richest.¹⁵





By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status.

Empowering and including the poorest and marginalised communities is central to reducing inequalities, both within and between nations. Such empowerment and inclusion are also, in and of themselves, a necessary element of each state's obligations under international human rights law. For example, under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), States guarantee the enjoyment of all basic and fundamental rights, including but not limited to, social, economic and political rights, without discrimination.

“By protecting these rights, we can help prevent the many conflicts based on poverty, discrimination and exclusion (social, economic and political) that continue to plague humanity and destroy decades of development efforts.” - Mary Robinson, United Nations

Failure to promote the social, economic and political inclusion of all is closely tied to economic inequality. For instance, a 2016 paper from Oxfam noted a tendency for women to be poorer than men, in part due to the overrepresentation of women in informal or precarious jobs. As women continued to provide the majority of unpaid care work, they were also more affected when public services were poorly funded.¹⁶ These concerns were once again raised in the wake of the COVID-19 pandemic, where the impact of school closures and economic cutbacks,

saw women disproportionately impacted. Promisingly however, according to the Commitment to Reducing Inequality Index 2022, women's rights in the workplace have improved substantially since 2020. While encouraging, positive global averages can mask more severe, localised setbacks as may be seen more recently in the ongoing collapse of women's legal protections in countries such as Afghanistan.¹⁷

SDG 10.2's encapsulation of various indices for equality attests to the importance of recognising the multiple dimensions of socio-economic inequalities in marginalised communities. For example, the European Union found that students from low-income households were more likely to gain less from the education system and attain much lower learning outcomes than richer students, manifesting in greater challenges for these students in determining their socio-economic status and conditions for the future.¹⁸

Progress towards Target 10.2 is measured by the proportion of people living below 50% of median income, categorised by: age, sex and persons with disabilities. Furthermore, the use of median income, indicative of the 'typical' person in a country, is used as a far more resilient measure to changes at the top and bottom of income distribution than calculations based upon mean income. This is useful insofar as under indicator 10.2, only those below the 50% threshold are considered, a common demarcation of relative poverty.¹⁹

While recent data is scarce for this indicator, the average country had around 13% of people living below the 50% threshold before the COVID-19 pandemic. However, this average can vary greatly, with countries and regions in Latin America and the Caribbean, as well as Sub-Saharan Africa, having higher levels of people living below the threshold. In the former, the latest data suggests a trending increase in numbers over the pandemic, notwithstanding decreases in Brazil due to the success of its social transfer programmes.²⁰



Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.

Target 10.3 calls for the elimination of discriminatory laws, policies and practices as well as the adoption and implementation of comprehensive equality legislation, policies, and actions to ensure equality of opportunity. This includes the adoption and financing of a range of policy measures to overcome past disadvantage and accelerate progress for groups that are unable to participate on an equal basis with others.²¹

Implementing and enforcing anti-discrimination laws and equality legislation is necessary for States to comply with their obligations under international human rights law and the SDG guiding principle to 'leave no one behind.' In addition, there is evidence that anti-discrimination policies have a positive effect on economic growth and can help to reduce poverty. For instance, employment and hiring processes that lead to more positive participation of women in the labour force have been noted to achieve growth and productivity gains.²²

One indicator to measure progress is the ratio of citizens that reported feeling personally discriminated against or harassed in the past 12 months on the basis of discrimination prohibited under international human rights law. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has produced guidance for States to track this indicator,²³ including the use and implementation of a data collection module designed to be incorporated into existing household survey instruments with relevant content such as crime victimisation and labour markets.²⁴ However, despite

the guidance, the methodology to track the indicator can be rather problematic and difficult to implement in practice due to inherent sensitivities.

"Ensuring equal access to justice for all will involve, among other things, promoting campaigns to enhance legal awareness and literacy, scaling up services to provide advice and assistance, developing alternative dispute resolution mechanisms and, ultimately, improving the institutional framework for resolving disputes, conflicts and crimes." - UNDESA

COVID-19 has had a magnifying impact on many structural inequalities and systemic forms of discrimination across the world. According to data collected between 2017 and 2021, a fifth of people experienced discrimination on at least one of the grounds prohibited under international human rights law. These effects are more likely to be experienced by women on the basis of sex, and among persons with disability.²⁵ Moreover, the effects of the pandemic have been felt more acutely by indigenous communities, once again amplified through structural inequalities. As a result, indigenous peoples have been recognised as having greater risk of discrimination, infection, death, and exclusion from vaccination programmes and national recovery efforts, thereby posing an associated risk to health. Concentrated risks have also been identified with regard to intersectional traits, with indigenous women and children facing greater risks of exclusion.²⁶

TARGET 10-4**Adopt policies, especially fiscal, wage and social protection policies and progressively achieve greater equality.**

Target 10.4 addresses three tools available to governments to achieve greater equality: taxation, wage regulation and social spending.

Fiscal policy can reduce economic inequality if taxes are progressive, i.e. if the tax rate increases along with the taxable amount. What matters here is the effective rate, rather than the nominal one: for instance, in the US, despite a nominal corporate tax rate of 21%, at least 55 of the largest corporations paid no federal income tax in the 2020 fiscal year despite substantial pre-tax profits.²⁷ Corporate tax strategies accentuate inequitable wealth distribution and deprive states, in developed and developing countries, of resources they could use to achieve greater equality.²⁸ A significant proposal in this area is the implementation of a global minimum corporate tax via the overhaul of international tax rules, which would introduce a tax floor to corporations with revenues above a certain amount. This concept was endorsed by the leaders of the G20 in October 2021, which saw an OECD deal on a global minimum corporate tax of 15%. Guidance on the new rules, designated under Pillar Two of the Global Anti-Base Erosion (GloBE),²⁹ was finalised in 2023.

Governments can also have a direct impact on the revenue of workers by setting a minimum wage. However, the impact of this policy depends on the specific labour market conditions: in many countries, a minimum wage is non-existent, unenforced or fixed below the poverty line, where an effective and decent minimum wage could significantly enhance living conditions for the poorest. but in other countries, an increase on minimum wage could lead to high structural unemployment or loss of competitiveness.³⁰ The role of governments here is linked to their state-derived

obligations under international human rights law, including the obligation to adopt positive and affirmative action measures to intervene where substantive inequalities are identified.

Social protection is critical in reducing inequalities and supporting human growth and productivity. Only 27% of the entire global population is covered by full social security systems, leaving 73% with partial or no social protection coverage at all. Social security systems are especially important for the protection of children and vulnerable populations, and also ensure the wage stabilisation of working adults in case of inability to work, for example, due to injury or pregnancy. The COVID-19 pandemic has revealed stark gaps in social protection coverage and measures to guarantee at least a basic level of income security and access to healthcare. Prior to COVID-19, countries spent on average 12.9% of their GDP on such protections, but the pandemic has exposed wide disparities between countries and regions with varying income levels. Similarly, the reallocation of significant resources away from general measures in favour of specific response provisions for COVID-19 have decreased availability of the protections on offer.³¹ It falls to nations' social protection policies to ensure the reduction of inequalities within countries and it is these policies that have the potential to directly impact the quality of life for society's most vulnerable members.

Progress towards this target will be measured according to the labour share of GDP, comprising wages and social protection transfers. This indicator provides information about the relative share of outputs paid to workers as compared with the share paid to capital, which disproportionately benefits the affluent. As of 2021, 3.3 billion workers relied upon labour income, notwithstanding their families or dependants.³² It should further be noted that lower economic growth was forecast to affect the capacity

of lower-income countries to combat poverty and improve working conditions. These predictions were made without sufficient data from over the pandemic, and their impacts are therefore likely to have been more acutely felt between 2020-2022. In addition to those 188 million unemployed across the world in 2019, 165 million people are being underutilised in the labour force. In effect, access to employment represents a severe issue, notwithstanding the realisation of adequate working conditions upon finding work.³³ Labour's share of GDP has decreased among almost all regions of the world over the past 15 years, largely due to stagnating wages.³⁴ Achieving this target would therefore require a reversal of the current trend.

It is worth noting that Oxfam and Development Finance International (DFI), have developed an index to measure the

commitment of governments to reduce economic inequality in three sectors (social spending, progressive taxation and wages). 2022 findings highlighted that during the pandemic, half of the 161 countries tracked by the index cut social protection spending, 70% cut education spending, while half of low-and lower-middle income countries cut health spending. Some countries bucked this trend, for example Nepal increased health spending by more than half, Costa Rica increased its taxation of the wealthiest by 10%, and Barbados introduced a suite of laws to improve women's labour rights, among others. Still, inequality was found to have generally increased worldwide, with the report highlighting the existence of inequality as a policy choice as opposed to a necessary reality.³⁵





Improve the regulation and monitoring of global financial markets and institutions and strengthen the implementation of such regulation.

The 2008 financial crisis, which led to a global economic downturn, demonstrated the need for regulation of global financial markets to enhance the stability of the world economy. In the aftermath of the crisis, the Third Basel Accord (known as Basel III), agreed upon by the members of the Committee on Banking Supervision, aimed at strengthening bank capital requirements.³⁶ Due to the COVID-19 pandemic, however, implementation of Basel III was extended until 1 January 2023 and will be phased in over five years.³⁷ While Basel III was not designed for low to lower-middle income countries, parts are being implemented by developing nations to better integrate with the international financial system.³⁸

Nonetheless, at regional and national levels, several reforms have been undertaken to reduce vulnerability to international financial shocks: in the US, the Dodd-Frank Act changed the regulatory structure by creating new regulatory agencies, merging existing ones and imposing stricter accountability and transparency standards to financial institutions.³⁹ In the

“Improvements in financial contracts, markets, and intermediaries expand economic opportunities, reduce persistent inequality, and tighten income distribution... financial development not only expands opportunities it fosters a more efficient allocation of resources.” - Ross Levine, IMF

European Union, several regulations and directives have been passed to, among other matters: regulate credit rating agencies; set stronger prudential requirements for banks; establish the European system of financial supervision; and, give the European Central Bank a power of direct supervision over the largest banks.⁴⁰

However, progress remains fragile, as witnessed by the partial repealing of the Dodd-Frank Act in 2018.⁴¹ Moreover, these new regulations have not always been equally implemented. Geopolitical events such as the war in Ukraine and an increase in US-China tensions have also had an impact on the implementation of international regulatory frameworks, fragmenting previously cohesive globalised efforts and reverting national foci to domestic rules and regulations. Digitisation of financial services and the advent of new technologies has also served to inject greater uncertainty as to the resilience and continuing effectiveness of global financial measures, posing both risk and opportunity to financial institutions.⁴² On measuring progress made towards this target, the UN relies upon the Financial Soundness Indicators (FSI) developed by the International Monetary Fund (IMF) to assess strengths and vulnerabilities of national financial systems. As such, more work is needed to develop a methodology to collect data at both regional and global levels.

It is also worth noting that there has been a movement toward the establishment of a small fee for international financial transactions to discourage speculative capital flows (that does not hamper long-term financing). The most relevant initiative in the European Union is the Financial Transaction Taxation proposed by the European Commission, which proposes to set a tax of 0.1% on stock and bond trades and 0.01 % on the notional value of derivatives. If applied to the entire European Union, this would generate over 30 billion Euros annually.⁴³



Ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions.

The indicator for Target 10.6 is the proportion of members and voting rights of developing countries in international economic and financial institutions.

Organisations of the World Bank Group operate under complex systems where the voting share depends on the capital stocks held by Member States. While developing countries represent 74% of the members in these institutions, they only have a voting share ranging from 32% (International Finance Corporation) to 38% (International Bank for Reconstruction and Development).⁴⁴

Governance at the International Monetary Fund (IMF) is designed to reflect the relative importance of its members in the global economy. Each State is allocated quotas, denominated by Special Drawing Rights, which determine its voting power as well as the contribution it is obliged to provide to the IMF and the maximum financing it could obtain from the organisation. In 2010, the 14th General Review of Quotas delivered a package of reforms, which shifted more than 6% of quotas from over-represented to under-represented Member States in order to enhance representation of emerging and developing countries. The reform has been effective since January 2016.⁴⁵

However, developing countries' voting share (37%) is still far from their membership share (74%). On 7 February 2020, the 15th General Review of Quotas was concluded with no increases, although the Board of Governors have requested the Executive Board to revisit the adequacy of quotas in

the 16th General Review, noting that any adjustment in quota shares would result in increases in the quota shares of dynamic economies in line with their relative positions in the world economy. This would most likely result in an increase in the share of developing countries as a whole, although the outcome will only be clear upon the conclusion of the 16th review, due by 15 December 2023.⁴⁶

“While the new allocation of SDRs is a positive development, it must be complemented by a reallocation of existing SDRs in favour of developing countries, whose capacity to respond to the crisis there is hampered by limited fiscal and financial space or structural conditions.” -ECLAC, ECA, United Nations

Notably, increasing the voting rights of developing countries under this indicator has been directly associated with causing a hindrance to achieving other SDG indicators, while the pursuit and realisation of other indicators are shown to be more congruent to cohesive progress. This finding is qualified by the suggestion that progress correlative with SDG 10.6 may simply be lagging in its impact, and that some regions (particularly Sub-Saharan Africa) pose less risk in terms of negative impact than others.⁴⁷



Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.

Migration is a cause and consequence of broader development processes and can be a positive driver for development when policies are in place that support orderly migration and migrants themselves.

Before the COVID-19 pandemic, the number of international migrants had been growing rapidly over the preceding twenty years, with numbers in 2019 reaching 272 million compared to 173 million in 2000.⁴⁸ This represents approximately 5% of the world population, meaning that the overwhelming majority of people remain in the country where they are born.



However, during the pandemic, permanent migration flows to OECD countries declined by more than 30%, while the number of new asylum applications in OECD countries fell by 31%.⁴⁹ This downward trend was the consequence of full or partial closure of 164 country borders, of which 99 made no exceptions for people seeking asylum, thereby increasing the vulnerability of these populations.⁵⁰

In 2022, for every 100,000 people, 429 are refugees outside their country of origin; more than double the number in 2010. Moreover, the absolute number of refugees reached its highest-ever number in 2022, exacerbated due to the war in Ukraine, continuing crises in Syria and Afghanistan, and increase in Rohingya refugees from Myanmar, among others.⁵¹ This marks a more than 100% increase in the total proportion of global refugees, up from 2015 levels.⁵² In fact, by the end of 2022, 108.4 million people worldwide had been forcibly displaced.⁵³

The International Organisation of Migration reported 5895 migrant deaths in 2021, with almost 60% of these seeking passage to Europe, making this the deadliest year for migrants since 2017. Increased fatalities are explained through reference to migrants taking more dangerous maritime and land routes as a result of the pressures exerted by the pandemic.⁵⁴ Concerningly, the true figure is likely far higher, given that many fatalities are discovered years following, given the remoteness of some border crossings, and the underreporting of migrant statistics by certain authorities. The total number of missing migrants since 2014 is thus thought to have reached almost 60,000.⁵⁵

Migration poses challenges for both the country of origin and the country of destination but can also generate benefits. Migrants play an important financial role in the development of their home countries. The World Bank found that, in 2020, migrants from developing countries sent an estimated

US\$701 billion in remittances home, which greatly surpassed official governmental development assistance levels.⁵⁶ Meanwhile destination countries benefit from migration through fiscal contributions and the filling of critical labour shortages.

“Migrants are needed in virtually all job markets; they bring skills and they help economies flourish. Although migrants represent just slightly over 3 per cent of the global population, they contributed 9 per cent of global GDP in 2015.” - Louise Arbour, UN Special Representative on International Migration

This target is closely related to the United Nations efforts to foster cooperation between states in the area of migration. In 2016, the General Assembly adopted the New York Declaration on Refugees and Migrants, under which all UN Member States subsequently concluded in 2018 two intergovernmental agreements on migration: 1). the Global Compact on Refugees and 2). the Global Compact for Safe, Orderly and Regular Migration.⁵⁷ The Global Compact on Refugees provides a blueprint for governments, international organisations and other stakeholders to ensure that host communities get the support they need and that refugees can lead productive lives.⁵⁸ The Global Compact for Safe, Orderly and Regular Migration encompasses 23 objectives, ranging from ensuring availability of pathways for regular migration, combatting smuggling and trafficking of migrants, and eliminating all forms of discrimination against migrants in the country of destination.⁵⁹ While the majority of countries reported having policies to facilitate orderly, safe, regular and responsible migration and mobility of people under

SDG 10.7, reporting levels remain uneven across regions and policy domains.⁶⁰



Implement the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with World Trade Organization agreements.

World Trade Organisation Agreements contain a number of special provisions which afford special rights and privileges to developing countries and allow developed countries to offer developing countries more favourable treatment than other WTO Members. Such provisions are termed “special and differential treatment” (S&D) provisions, and contain, for example, terms to grant longer or extended time periods for the implementation of commitments; increased trading opportunities for developing countries; specific safeguards to protect developing country trade interests; and help to build developing country capacities, as well as other provisions specific to least-developed country members. These special provisions were affirmed by ministers in the Doha Mandate 2001, with a review mechanism being established during The Bali Ministerial Conference 2021.⁶¹

This indicator is measured according to the proportion of tariff lines applied to imports from least developed countries and developing countries with zero-tariffs and has remained relatively consistent in terms of least-developed countries, small island developing states, and developing countries since 2015, suggesting a stagnant trend and a need for progress.



Encourage official development assistance and financial flows, including foreign direct investment, to States where the need is greatest, in particular least developed countries, African States and landlocked developing countries, in accordance with their national plans and programmes.

Least developed countries (LDCs), landlocked developing countries (LLDCs) and Small Island Developing States (SIDS), have been recognised as facing particular difficulties in achieving their developmental aspirations.⁶² The need for varied channels of capital flow is essential for overcoming some of these challenges; enabled and directed through national policy and investments from various public and private sources for making progress toward the SDGs.⁶³ Capital may be obtained primarily by virtue of lending initiatives from International Financial Institutions, overseas direct investment, and private capital markets. Utilising a combination of different funding sources however, provides greater capability to satisfy short, medium and long term development needs. Having a system to adequately manage capital inflows is therefore vital to the effective distribution of resources. This becomes particularly complicated where countries exist on the threshold of different income brackets, making their financing eligibility for different schemes and thresholds more difficult to predict and manage over the medium and long term.⁶⁴

These issues have been acutely felt in recent years, given the increased volatility of private capital flows arising from the COVID-19 pandemic. While these flows are still higher than pre-pandemic levels, growing uncertainty as to their reliability makes long-term planning difficult. Indeed, developing countries are particularly vulnerable to such

volatility, which has caused a partial depletion of financial reserves.⁶⁵ Moreover, public debt in developing nations has increased drastically in recent years, exacerbated due to external factors such as the pandemic, the war in Ukraine, climate change, and more localised governance failures.⁶⁶ It is presently unclear whether responses by the international community to combat developing country debt distress and its accompanying vulnerabilities, have been sufficient to reverse the trend of negative capital outflows. A lack of international financial liquidity means that these impacts are likely to continue to be felt for the foreseeable future, with UNCTAD warning of another 'lost decade' for the development of those nations most affected. While Special Drawing Rights (SDR) have been made available to developing countries specifically to insulate against such risks, many of these have already been exhausted.⁶⁷





By 2030, reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent.

International remittances play an important cross-cutting role in the attainment of the SDGs. In 2020, international remittance flows reached US\$701 billion US dollars worldwide, a figure that has been trending upwards for decades.⁶⁸ This contributes to an estimated total of \$6.5trillion to be sent to developing countries between 2015-2030. For many developing countries, the amount received through remittances surpasses the combined flows from Official Development Assistance and Foreign Direct Investment (FDI).⁶⁹ Formal methods of remittances, such as through banks, financial institutions, money transfers services etc., are estimated to be less common than informal methods, given that access to bank accounts or banking services may be scarce amongst beneficiaries in remote areas. Purposes for remittance payments for recipients in developing countries vary widely – supplementing living expenses and meeting essential needs across food, housing and other expenses. In this way, migrants leaving home for remittance purposes are at once affording the opportunity to their recipients to mitigate disruption to their livelihoods, while addressing the root cause of their own migration.⁷⁰

The contribution of remittances to the SDG framework is clear, having been recognised as having positive development impacts beyond the individual or family level, and disseminating into broader benefits to the community. Moreover, recognition of this importance has led to changes in legal and regulatory frameworks governing remittances. While this is primarily monitored under SDG 10, impacts have been recognised under SDG 1 (no poverty), SDGs 3 and 4 (health and education), and SDG 5 (gender equality), and

many others.⁷¹ This has also been recognised by Objective 20 of the Global Compact for Safe, Orderly and Regular Migration, which calls for concerted effort to maximise and enable the effective transfer of remittances.⁷²

“We have come a long way since we started to realize the magnitude and potential of remittances flows, and began to work as a community to increase the focus on policies affecting international remittances.” - Ceyla Pazarbasioglu, Senior Director, World Bank

However, the COVID-19 pandemic and its accompanying restrictions on movement and local lockdowns, has ushered in increasing digitisation, and therefore formalisation, of many remittance transfers.⁷³ The cost of remittances has been decreasing gradually for several years, though this accelerated during the pandemic due to uptake of digitised processes and greater recognition. The average cost for sending \$200 in 2021 was recorded at 6.3% – a 3% decrease from 10 years prior, but still short of the 3% target. Counterintuitively however, regional disparities exist. Sub-Saharan Africa and Oceania (excluding New Zealand and Australia), were the most expensive regions to send money to, having costs closer to 8% and 9%, respectively.⁷⁴

Global trends in the cost and availability of remittances are being closely monitored by the World Bank.⁷⁵ Challenges remain however, in maximising the benefits of remittance transfers for both migrants and recipients. This is compounded by low levels of financial inclusion limiting the scope and effectiveness of national remittance initiatives in reducing formal costs. Without greater inclusion,

accurate data on remittances remains scarce, with informal channels making up anywhere between 35% to 90% of remittances pre-pandemic.⁷⁶ While informal remittances are not detrimental in and of themselves, the global average cost for formal, digital remittances was recorded as almost 2% cheaper than informal remittances, suggesting an unrealised saving.⁷⁷ Stimulating competition amongst

remittance providers, as well as supporting appropriate financial technology developments with secure policy and regulatory backing could also help encourage formalisation processes, though this should not be considered a panacea or alternative to other international capital flows directed toward sustainable development initiatives.⁷⁸



Key actions lawyers can take

This section summarises several avenues through which the legal community can build its understanding of the SDGs in general, as well as specific areas for action where

the profession is able to use its expertise and influence to contribute to the primary objective of SDG10 in reducing inequalities.

Learn and educate

Global discourse on inequality's causes and impacts is fast moving. To understand what best practice dictates at any given point in time, lawyers would do well to refer to the contributions and reports of international organisations, such as the World Bank,¹⁴⁵ the International Monetary

Fund¹⁴⁶ or the OECD,¹⁴⁷ as well as international civil society organisations, such as OXFAM;¹⁴⁸ all of whom produce substantial research and analysis on inequality and its impact on economic growth.

Integrate

There have been widespread calls for enhanced diversity and inclusion within law firms; not only as key employers but as organisations committed to upholding the rule of law. This means investing in a legal profession that is able to effectively represent the diverse communities it serves.

To do this, law firms can look to champion equality in their own offices at all levels. This includes fostering an environment where diversity is celebrated, while also considering how diversity and inclusion are integrated throughout leadership and operational channels.

Act

Rising inequalities greatly undermine the ability for many individuals to access legal representation and assistance through publicly available mechanisms. Lawyers can directly contribute to ensuring equality before the law in a number of ways to combat these challenges.

Lawyers working pro bono can look to contribute their expertise to support low-income and marginalised

communities, including refugees and migrants. Legal professionals can utilise strategic litigation to call into question outdated laws and practices, as well as work alongside civil society organisations and NGOs to promote non-discriminatory practices. As arbiters of justice, legal professionals (particularly judges) can look to engage with specialist training on equality and diversity to challenge preconceived notions and overcome unconscious bias.

Elements of the international legal framework



Universal Declaration on Human Rights

Adopted by the UN General Assembly: 10 December 1948

The Universal Declaration on Human Rights (UDHR) is a landmark declaration 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.

Equality and non-discrimination are fundamental components of human rights law and permeate the entire Declaration. Article 1 proclaims that 'All human beings are born free and

equal in dignity and rights'; while, according to Article 2, 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.' Article 7 embodies the principle of equality before the law: 'All are equal before the law and are entitled without any discrimination to equal protection of the law'. Moreover, when defining specific rights, the drafters specified that these should be enjoyed without discrimination; this is the case for the right to fair trial (Article 10), right to marry (Article 16), access to public service and right to vote (Article 21), right to equal pay for equal work (Article 23), and right to education (Article 26).

International Covenant on Civil and Political Rights

Adopted by the UN General Assembly: 16 December 1966

Entered into force: 23 March 1976

Status of ratification (as of June 2023): 173 Parties

The International Covenant on Civil and Political Rights (ICCPR) commits its State Parties to respect the civil and political rights of individuals, including the right to life, freedom from arbitrary arrest and detention, the right to due process, freedom of thought, religion, speech and association, and the right to vote. With the Universal Declaration on Human Rights and the International Covenant on Economic, Social and Cultural Rights, the ICCPR forms the International Bill of Human Rights.

Under Article 2(1), each State Party undertakes ‘to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’. Article 26 of the Covenant

enshrines the right to non-discrimination: ‘All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’ In interpreting the ICCPR, the UN Human Rights Committee has noted that ‘other status’ includes a range of additional characteristics such as age,⁷⁹ sexual orientation,⁸⁰ and disability.⁸¹

Contrary to Article 2(1) which is limited to the rights recognised in the ICCPR, Article 26 provides for an autonomous right to being treated equally ‘in any field regulated and protected by public authorities’.⁸² Moreover, the principle of equality is expressly referred to in articles relating to specific rights, such as the right to a fair trial (Article 14) and right to participation in public life (Article 25).

International Covenant on Economic, Social and Cultural Rights

Adopted by the UN General Assembly: 16 December 1966

Entered into force: 6 January 1976

Status of ratification (as of June 2023): 171 Parties

The International Covenant on Economic, Social and Cultural Rights (ICESCR), drawing on the UDHR, affirms a series of human rights in the economic, social and cultural spheres. As it is legally binding on a large number of states, it indicates a wide consensus on the existence of these rights; however, some states have signed but not ratified the ICESCR, notably

the United States.

Like the ICCPR, the ICESCR obliges each State Party to guarantee that economic, social and cultural rights ‘will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’ (Article 2 (2)).

General Comment No. 20 on non-discrimination in economic, social and cultural rights elaborates on the scope of State obligations, the prohibited grounds of discrimination, and the measures States should take at a national level to make sure

that discrimination is eliminated in the exercise of economic, social, and cultural rights.⁸³ According to General Comment no. 20, the right to non-discrimination is ‘immediate and cross-cutting,’⁸⁴ and States have an obligation to prevent indirect discrimination as well as direct, which refers to laws,

policies, and practices that appear neutral at face value but disproportionately impact certain protected individuals more than others.⁸⁵ States are also required to adopt specific, comprehensive anti-discrimination legislation that applies to actors in both the public and private sectors.⁸⁶

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 June 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 State Parties not only to prohibit, but also eliminate, racial discrimination in all its forms, and expressly delineates examples of the rights that people of every race should enjoy equally, including the rights to education, housing, and work.

The 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 June 2023): 189 Parties

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) defines discrimination against women and sets forth an agenda to eliminate it. States must guarantee human rights and fundamental freedoms to women “on a basis of equality with men.”

This obligation extends to the public sphere, with a focus on political life, representation and rights to nationality; the social and economic spheres, focusing on education, employment and health; and the private sphere, outlining equality in marriage and family life.



Convention on the Rights of Persons with Disabilities

Adopted by the UN General Assembly: 13 December 2006

Entered into force: 3 May 2008

Status of ratification (as of June 2023): 187 Parties

The Convention on the Rights of Persons with Disabilities (CRPD) is intended to promote and protect the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities. Article 1 of the CRPD specifies that 'persons with disabilities' extends to those with

long-term physical, mental, intellectual, or other sensory impairments which, because of various barriers, could hinder their full and equal participation in society.

The CRPD calls upon States to take various measures in this regard, including adopting legislation, researching technological developments to meet the needs of persons with disabilities, and training professionals to assist persons with disabilities. State Parties must also prohibit discrimination based on disability.

Convention on the Rights of the Child

Adopted by the UN General Assembly: 20 November 1989

Entered into force: 2 September 1990

Status of ratification (as of June 2023): 196 Parties

The United Nations Convention on the Rights of the Child (CRC) 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'. Article 2 of the CRC states that the rights enshrined must be applied equally to all children, irrespective of sex or any other status. 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.

Convention Concerning Discrimination in Respect of Employment and Occupation (ILO Convention No. 111)

Adopted by the UN General Assembly: 25 June 1958

Entered into force: 25 June 1958

Status of ratification (as of June 2023): 175 Parties

The Discrimination (Employment and Occupation) Convention is another of the International Labour Organisation's eight fundamental conventions. It prohibits any distinction, exclusion, or preference made on the basis of race, colour, sex,

religion, political opinion, national extraction, social origin, or other identity which a State deems appropriate in the areas of employment and occupation.

State Parties must declare and pursue national policies designed to promote equal opportunity in respect of employment and occupation (Article 2). Article 5 notes that 'special measures of protection or assistance' for a particular group are not considered discrimination.

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 June 2023): 58 Parties

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) governs the protection of migrant workers and families. CMW aims to prevent and end the exploitation of migrant workers through binding international standards that address issues of treatment, welfare, and human rights of documented and undocumented migrants. In protecting migrant workers against poverty, the CMW ensures the right to

enjoy equal treatment with nationals of the host State with respect to employment (Article 25), social security (Article 27), emergency medical care (Article 28), and access to educational institutions and other services (Article 43).

Compared to the other UN human rights instruments, the CMW has achieved a much lower rate of ratification. Most ratifying States, located in Western and Northern Africa and Latin America, represent regions where migrants traditionally originate from. On the contrary no country that takes in large numbers of migrants – including Western European countries, the U.S., Australia, and Canada – has thus far either signed or ratified the CMW.

Equal Remuneration Convention (ILO Convention No. 100)

Adopted by the UN General Assembly: 29 June 1951

Entered into force: 23 May 1953

Status of ratification (as of June 2023): 174 Parties

The Equal Remuneration Convention (ERC), one of the International Labour Organisation's eight fundamental conventions, is aimed at achieving equal pay for work of equal value for men and women globally. Article 2 requires States to promote and ensure equal remuneration, and then suggests ways to attain this goal, including through national laws or regulations, legally recognised machinery for wage determination, collective agreements between employers and workers, or a combination thereof.



Soft law and declarations

Declaration on the Right to Development (1986)

The Declaration on the Right to Development, adopted by the UN General Assembly in 1986, is often construed as advancing both an individual right and a collective right of peoples. The Declaration proclaims the Right to Development to be: 'an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised'.³³ Notwithstanding political and theoretical debates, the UN has aimed to mainstream the right into its policies and operational activities. Key themes

include the importance of integrating a human rights-based approach to the process of development, as well as the role of duty-bearers such as governments, international organisations and transnational corporations.

In addition to effective international cooperation, Article 8 of the Declaration urges States to undertake all necessary measures at the national level to ensure 'equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment, and the fair distribution of income.'

Beijing Declaration and Platform for Action (1995)

The Beijing Declaration, adopted by the UN General Assembly at the end of the Fourth World Conference on Women on 15 September 1995, solemnly affirms that 'women's rights are human rights' and that women's empowerment is 'fundamental for the achievement of equality, development and peace'.

The Platform for Action, which accompanies the Declaration, highlights 'critical areas of concern': poverty, unequal access to education and healthcare, violence against women, etc. In each of these areas, the problem is diagnosed, and strategic objectives are proposed with concrete actions to be taken, many of them being similar to targets of SDG 5 on Gender Equality.



The United Nations Declaration on the Rights of Indigenous Peoples (2007)

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007 after two decades of negotiation, aims to protect and promote the inherent rights of indigenous people on an equal basis and without discrimination.³⁵

The UNDRIP provides a universal framework guaranteeing a minimum standard of well-being for indigenous people around the world. In seeking the alleviation of poverty within indigenous communities, it emphasises their right of access to education under Article 14(2), and the right to enjoyment

of all domestic and international labour law under Article 17(1). Article 21(1) includes the right to maintain, develop and improve their economic and social conditions, notably in education and employment. Article 26 reiterates the rights of indigenous peoples to the lands, territories and resources which they have traditionally owned. This is supplemented by Article 8(2), which requires that State Parties to the Convention provide effective protection against any action aiming at removing land from indigenous peoples.

Addis Ababa Action Agenda (2015)

Adopted at the Third International Conference on Financing for Development and subsequently endorsed by the UN General Assembly in its resolution 69/313 of 27 July 2015, the Addis Ababa Action Agenda sets out an international framework for financing the 2030 Agenda for Sustainable Development by aligning financing flows and policies with priorities set up in the SDGs.⁸⁷

In this Declaration, UN Member States make several commitments to be implemented at the national level to achieve the targets of SDG 10: to provide social protection systems with a focus on the poorest and the vulnerable (para. 12), to promote social inclusion in domestic policies and enforce non-discriminatory laws (para. 21), and to ensure that their policy and regulatory frameworks support financial markets' stability and promote financial inclusion (para.38).

At the international level, States undertake to reduce inequalities by broadening and strengthening the voice and participation of developing countries in global economic

governance (para. 106), by cooperating to hasten the reform of financial markets regulation (para. 109) and by working together to ensure safe, orderly and regular migration with full respect of human rights (para. 110).

“The results here in Addis Ababa give us the foundation of a revitalized global partnership for sustainable development that will leave no one behind.” - Ban Ki Moon, Former UN Secretary General

On global economic governance, the Addis Ababa Action Agenda is more specific than the SDG target 10.6 since States commit to use open and transparent, gender-balanced and merit-based procedures to select heads and to enhance diversity of staff in the main international financial institutions (IMF and World Bank).

Regional and legal policy frameworks

Africa

African Charter on Human and People's Rights (1986)

The Organisation of African Unity, now the African Union, adopted the Charter in 1981, which entered into force on 21st October 1986. The Charter encompasses civil, political, economic, social and cultural rights and its implementation is overseen by the African Commission on Human and Peoples' Rights.

A particular feature of the African Charter is to recognise rights, not only of individuals, but of peoples. It is also the only human rights instrument to explicitly refer to the right to development under Article 22, which enshrines the right of all peoples to

their economic, social and cultural development and the duty of States to ensure the exercise of this right.

Articles 2 and 3 contain, respectively, the principle of non-discrimination in the enjoyment of the rights and freedoms recognised in the Charter and the principle of equality before the law. In particular, States must ensure the elimination of every form of discrimination against women (Article 18.3) and take special measures of protection for older persons and persons with disabilities (Article 18.4).



The Protocol to the African Charter on the Rights of Women in Africa (2003)

Because the Charter only explicitly refers to the rights of women once, under Article 18 in regard to the family, the African Charter on the Rights of Women in Africa – also known as the Maputo Protocol – was later adopted in 2003.

The Protocol provides that States must combat all forms of discrimination against women (Article 2) and ensure women are given equal protection under the law including through access to legal services (Article 8), as well as promote their ability to participate in the political life of their countries (Article 9).

Under Article 19, the Protocol also lays out States' obligations to respect women's right to sustainable development, which obligates them to consider and include gender perspectives in their national development plans, ensure the participation of women in decision-making and the implementation of policies and programmes, and to protect women against any negative or adverse effects of globalisation or economic policies.

Americas

Charter of the Organization of American States (1948)

The Organization of American States (OAS) was founded in 1948 to promote solidarity and cooperation among its member States within the Americas.

“Our region is not the same it was three decades ago. Higher economic growth has made it possible to reduce poverty and enlarge the prospects for a better life of many of the continent’s inhabitants.”
- José Miguel Insulza, Secretary General Organization of American States

the role that equality among peoples should play in that development. In particular, Article 34 of the Charter notes ‘Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development.’

In this same article, concrete goals for achieving this equality are set forth, including equitable distribution of national income, setting fair wages, and expansion of educational opportunities.

Its Charter, adopted on 30 April 1948, focuses strongly on the integral development of Member States and emphasises

American Convention on Human Rights (1978)

The American Convention on Human Rights (ACHR) was adopted in 1969 and entered into force in 1978. As of November 2021, 24 of the OAS's 35 Member States had ratified the ACHR. Article I of the ACHR codifies a general obligation of State Parties to respect the rights and freedoms of persons subject to their jurisdiction, without discrimination on the basis of any identity or social condition. The remainder of the treaty elaborates on each of the specific human rights that are to be protected, including freedom of thought and expression, the right to property, the right to participate in government and the right to judicial protection.

The ACHR sets forth its own dispute settlement mechanism. Compliance with the treaty is overseen by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The Commission makes recommendations to governments on measures to promote human rights and prepares studies and reports on human rights within the Americas that are reported annually to the General Assembly OAS. The Court adjudicates disputes over alleged human rights violations on the part of a State Party that has accepted its

jurisdiction. Individuals and other non-governmental entities may not bring a claim before the Court; instead, they must submit a petition to the Commission alleging a human rights violation on the part of a State government. Only if the State does not heed the Commission's recommendations for ceasing the rights violation may the case be referred to the Court. v

“This inter-American human rights law, whether it embodies the hope of access to justice and equality for some, to truth for others, or to the protection of the most vulnerable, is also, for the lawyer, a paradigm for what is and what must be public international law centered on humanist and progressive values.” - The American Convention on Human Rights: A Commentary

Inter-American Convention Against All Forms of Discrimination and Intolerance (2020)

The Inter-American Convention Against All Forms of Discrimination (IACAFD) is a newer treaty within the OAS system; it was adopted in 2013, entered into force in 2020, and as of November 2021 is ratified by only two States, though more have signed. It affirms every human being's right to equal protection against any form of discrimination in both public and private spheres.

Article I sets forth one of the most inclusive lists of grounds for discrimination found in any international human rights

instrument, expressly covering not only discrimination based on gender or religion but also educational level, refugee status, and mental or physical health condition. Article 4 elaborates on the duties of State Parties to prevent, eliminate, prohibit, and punish discrimination and intolerance.

Though this treaty is still young and not yet widely ratified, it is an example of a modern, comprehensive, and specific human rights instrument that creates clear and defined obligations for States.

European Union

European Union Foundational Treaties (TEU and TFEU) (1957 onwards)

The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) together make up the constitutional basis for the European Union. Both contain repeated references to equality and non-discrimination among EU citizens and within EU processes. Article 2 of the TEU notes that the EU is founded on values of respect for human rights, including the rights of minorities, and that the EU is a society in which 'pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail'. TEU Article 3 commits the EU to, in its work for the sustainable development of Europe, combat social exclusion and discrimination.

The TFEU similarly reflects a commitment to equality; Article 8 requires the EU to aim to eliminate inequalities in all its activities, and Article 10 promises that 'in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. The TFEU also places particular emphasis on equality between men and

women; statements about promoting equality between men and women in the labour market appear in Articles 8, 153, and 157.



Charter of Fundamental Rights of the European Union (2000)

The Charter of Fundamental Rights (CFR) was adopted in 2000 and entered into force in 2009. The CFR codifies certain political, social, and economic rights for EU citizens into law. It is a consolidation of the rights of individuals as established at different times in different ways, including through case law from the EU Court of Justice, the European Convention on Human Rights, and the constitutional traditions of the various

EU countries. Title III of the CFR concerns equality and includes a non-discrimination provision (Article 21) and provisions on equality between women and men (Article 23), equality for persons with disabilities (Article 26), and the rights of children and the elderly (Articles 24 and 25, respectively).

Equal Treatment Directive (2006/54/EC as amended)

This EU directive was designed to guarantee the implementation of the principle of equal opportunity and equal treatment of men and women in access to employment, working conditions and occupational security schemes.⁸⁸ The directive specifically prohibits direct and indirect

discrimination based on sex. Member States had to introduce transposition measures to ensure the implementation of the directive, including compensation and reparation mechanisms in case of discrimination on the grounds of sex.

Employment Equality Framework Directive (2000/78/EC as amended)

This EU directive was designed to protect individuals from discrimination in the workplace on grounds other than gender or race, which are covered separately in 2006/54/EC and 2000/43/EC.⁹⁰ It lays down a general framework for combating discrimination based on religion, disability, age, or sexual orientation as regards employment and occupation. It exempts

certain circumstances from qualifying as discrimination, such as genuine occupational requirements, objective and reasonable differences of treatment on grounds of age, and positive action to compensate for disadvantages linked to any of the protected grounds.

EU Multidimensional Inequality Monitoring Framework (MIMF)

This EU framework was developed in 2021, recognising the multidimensional nature of inequalities. It seeks to provide a foundation upon which the intersection of such inequalities may be measured and serve as the basis for the effective design and implementation of policy initiatives within the EU. To this end, the framework amalgamates over 300 metrics geared toward the assessment of inequality at the national level.

Moreover, it is designed to act as a comparative index to assist in the measurement of inequalities across different EU member states, as well as between generations of families, to chart trends in data over time. More specifically, it seeks to observe and understand the impact of inequalities existent in categories beyond individual control, and across various 'life

domains' (e.g. living conditions, working life, health, the natural environment).⁹¹

“If our aim is to build a fairer and more equal Europe, we need to put inequalities and inequality policies on an equal footing with other policy priorities and social targets... In this regard, it is worth emphasising that inequality and poverty do not necessarily move in the same direction.”

Race Equality Directive (2000/43/EC as amended)

This EU directive was introduced to prevent discrimination on the grounds of racial or ethnic origin. It forbids direct or indirect discrimination, harassment or actions causing one person to discriminate against another person based on race or ethnic origin.⁸⁹

It applies to all persons and sectors with special reference

to the recruitment process, working conditions, access to vocational training, workers' involvement in professional organisations, access to social protection and healthcare, education and social advantages. The directive does not include discrimination on the grounds of nationality, or the conditions of entry and residence for citizens from third countries in the European Union.

Employment Equality Framework Directive (2000/78/EC as amended)

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certain circumstances from qualifying as discrimination, such as genuine occupational requirements, objective and reasonable differences of treatment on grounds of age, and positive action to compensate for disadvantages linked to any of the protected grounds.



Council of Europe

European Convention on Human Rights (1953)

The European Convention on Human Rights (ECHR), also known as the Convention for the Protection of Human Rights and Fundamental Freedoms, is an international treaty that protects human rights and fundamental freedoms in Europe. In 1950 the newly formed Council of Europe drafted the ECHR, and on 3 September 1953 it entered into force. All 47 Council of Europe member states have signed and ratified the convention and are thus obliged to guarantee the civil and political rights of those within their jurisdiction.

Article 14 of the ECHR provides that the enjoyment of rights and freedoms set forth in the Convention shall be secured without discrimination based on 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other

status.' In 2000, the ECHR was complemented by the Optional Protocol No.12, which provides a general prohibition of discrimination. The prohibition contained in Article 14 of the ECHR is limited as it merely prohibits discrimination in the enjoyment of one or the other rights guaranteed by the Convention. The Protocol removes that limitation and guarantees that no one shall be discriminated against on any ground by any public authority. Entered into force in 2005, the Optional Protocol No.12 has been ratified by 20 States.

Note that the ECHR differs from the EU CFR in that the latter covers only Member States within the European Union, which is a smaller group of States than belong to the Council of Europe. As earlier noted, however, the CFR incorporates the rights that had earlier been codified in the ECHR.



Examples of relevant national legislation

UK

Equality Act (2010)

The Equality Act 2010 (the Act) repealed, replaced and consolidated the principles of earlier equality legislation; codifying UK equality law, which is partly domestic in origin and partly derived from EU law (Schedule 27 lists the repealed legislation). The Act offers a legal framework that aims at protecting the rights of individuals and advancing equality of opportunity for everyone by prohibiting conduct and creating duties in relation to ‘protected characteristics.’ The nine protected characteristics are listed in section 4 of the Act and include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Act prohibits direct and indirect discrimination, and harassment and victimisation. It also prohibits discrimination in relation to something arising from a person’s disability and creates a duty to make reasonable adjustments for disabled people. However, the prohibitions and duties in the Act only apply in specific contexts; namely: (i) services and public functions; (ii) work/the workplace; (iii) the management and disposal of premises; (iv) education; (v) clubs and associations; and (vi) transport.

The earlier Equality Act 2006 established the Equality and Human Rights Commission (the EHRC), which replaced the Equal Opportunities Commission, Commission for Racial Equality and the Disability Rights Commission with a single equality body. The EHRC was introduced to promote and

encourage understanding of and adherence to equality and human rights. The EHRC is a non-departmental public body in England, Wales and (in part) Scotland, responsible for monitoring compliance with the Act, but is not responsible for enforcing its provisions. Individuals can enforce their rights under the Act before the courts. However, the EHRC also has a range of powers at its disposal to enforce equality law at a more institutional level, and often strategically intervenes as a party to litigation if doing so could help advance the objectives of equality law.⁹²

“The complexities and contradictions [of inequality] pose very real and very urgent challenges to those working for greater social equality and justice in contemporary Britain, not only in understanding this shifting terrain, but finding ways to move forward, and together.” - Ethnicity, Race and Inequality in the UK

As a consequence of the UK’s exit from the EU, a new statutory instrument (Equality (Amendment and Revocation) (EU Exit) Regulations 2019/305) was implemented to tackle the deficiencies that would have otherwise been created in domestic law, and to ensure that the domestic legislation will

continue to operate as before. In common with hundreds of other pieces of primary legislation, the Act, along with other primary and secondary legislation that are broadly concerned with equalities, contained a number of references to the EU, to EU law and to EU institutions.

Therefore, the new statutory instrument either amended or revoked such references, such as sections 203 and 204 of the Act (which had enabled domestic law to be harmonised with

any new EU obligations) which were removed entirely and not replaced with equivalent provisions. In the Explanatory Memorandum to this new instrument, any such amendments were only technical in nature and maintain the status quo for equality protections in the post-EU exit domestic legislative framework; consistent with the Government's pledge that there would be no reduction in protections in domestic equality legislation upon the UK's departure from the EU.⁹³

Commission on Race and Ethnic Disparities (CRED)

The Commission on Race and Ethnic Disparities (CRED) was set up by the Prime Minister of the UK in 2020 to identify racial disparities and inequalities in Britain and ways to address them, with a particular focus on education, health, employment and criminal justice. On 31 March 2021, the Report of the CRED was published which set out numerous recommendations for the

UK Government to consider.⁹⁴ On 17 March 2022, the Government published its response to the CRED report titled 'Inclusive Britain,' which sets out over 70 actions in response to the CRED 2021 report recommendations.

These actions are grouped under three key themes:

- (i) trust and fairness;
- (ii) opportunity and agency; and
- (iii) inclusion.

'Inclusive Britain' also sets out an inclusion strategy for the UK and forms part of the Government's 'Levelling Up' agenda. One of the proposed actions described in 'Inclusive Britain' relates to the increase in recent high profile human rights cases, which underlines the importance of strengthening the EHRC's ability to enforce the 2010 Act (see above). In 2023, the Government issued a one-year implementation review, announcing that 32 of the 74 actions identified in the report had been met, with the remainder to be completed before the end of March 2024.⁹⁵



Brazil

Bolsa Família (Family Grant) (2003)

Bolsa Família is a Brazilian social program providing cash transfers to poor families on the condition that children are vaccinated and attend school. As in many Latin American countries, Brazilian society is characterised by high levels of social and economic inequality. During the early 2000s, boosted by the increase of commodity prices on world markets, the Brazilian economy experienced a strong and sustained growth.

According to the World Bank's indicator of shared prosperity, thanks to pro-poor and redistributive policies, this economic growth disproportionately benefited the poorest households and thus contributed to sharply reducing income inequality. The World Bank estimates that, between 2004 and 2014, 26.5 million Brazilians exited poverty.⁹⁶ This success in reducing inequalities cannot be attributed to the Bolsa Família programme alone. Increases in the minimum wage, infrastructure investments – especially rural electrification – and reforms of the labour market all generated positive impacts. However, the Bolsa Família programme, which covers about a quarter of the country's population, is estimated to have contributed to between 10% and 15% of the reduction in income inequality during the early 2000s.⁹⁷

Importantly however, the World Bank reported that Brazil's expansive social protection system was unable to serve effectively as a countercyclical protection system during the 2014-16 economic crisis, which proved severe across all income groups.⁹⁸ More recently, while emergency transfers for income support during the COVID-19 pandemic had proven an essential lifeline to many, their rapid withdrawal led to a sharp increase in poverty from 2020-2021.⁹⁹ In addition,

Brazil remains the 6th most unequal country in the world.¹⁰⁰ Future challenges in the macroeconomic context and political instability could therefore cause some of the gains in income equality to be short-lived.



Bolivia

Law Against Racism and All Forms of Discrimination (2010)

The Law Against Racism prohibits public and private forms of discrimination, consolidates anti-discrimination public policy, and requires the mass media to dedicate some time or space for anti-discrimination content.¹⁰¹ Its provisions include:

- Article 13 penalising racist or discriminatory acts by public servants
- Article 14 penalising racist or discriminatory acts by private institutions
- Article 15 prohibiting discrimination in the right to enter establishments serving the public
- Article 21 making racist or discriminatory motives an aggravating factor for all crimes
- Articles 22 and 23 creating a series of crimes against “human dignity”

Economic and Social Development Plan (2016-20); (2021-2025)

Bolivia also introduced an Economic and Social Development Plan from 2016-20 composed of 13 pillars, which include the eradication of extreme poverty through the raising of minimum wage and the adoption of cash transfer programs, and the universalisation of basic services.¹⁰²

The Plan also contemplated developing institutions to better implement the 2010 Law Against Racism. This was succeeded by the 2021-2025 Economic and Social Development Plan, which is aligned closely with the SDGs, and marks progress towards Bolivia’s broader ‘Patriotic Vision: 2025’. These promote the eradication of extreme poverty, the universalisation of basic services, and ‘harmony with Mother Earth’.¹⁰³

These policies, among other factors such as sustained economic growth,¹⁰⁴ resulted in a significant decline in inequality in Bolivia from 2000 to 2019.¹⁰⁵ Poverty rates also fell from 60% in 2006 to 34.6% in 2018.¹⁰⁶ However, the COVID-19 pandemic has pushed the country into a recession that has

resulted in increased poverty rates and a lack of funding for social programs.¹⁰⁷



Bosnia and Herzegovina

Law on Prohibition of Discrimination (2016)

The 2016 amendments to the Law on Prohibition of Discrimination altered Bosnia and Herzegovina's framework of anti-discrimination laws to explicitly include sex characteristics, sexual orientation, gender identity, age and disability as protected categories, as well as adopt an improved definition of harassment and sexual harassment and of aggravated forms of discrimination.¹⁰⁸ As a result of these amendments, a significant number of discrimination cases have been brought before domestic courts and the Ombudsman, invoking rights to non-discrimination in employment opportunities, access to social and health services, among others.¹⁰⁹ Additionally, in

2020, the Federation of Bosnia and Herzegovina appointed a working group to draft legislation on same-sex couples' rights, taking the first step towards recognizing same-sex marriage and adoption.¹¹⁰

Despite these positive measures, however, Bosnia and Herzegovina's sizeable Roma minority and LGBTQIA+ communities continue to experience discrimination.¹¹¹ With respect to LGBTQIA+ discrimination in particular, information is not systematically collected, even though the original 2009 Law on Prohibition of Discrimination called for this.

Georgia

Targeted Social Assistance (2006)

The Targeted Social Assistance (TSA) program is Georgia's primary tool for transferring resources to poor households. Cash transfers and other benefits, including health insurance, are provided to eligible households below a certain welfare score.¹¹² The TSA program provides coverage for 11.2% of the population,¹¹³ and the World Bank reported in 2016 that the program lifted 6% of the population out of extreme poverty.¹¹⁴ Since then, poverty in Georgia has declined, with 21% of the population living in poverty in 2020 (down from 37% a decade before).¹¹⁵

In spite of the program's overall success, there are challenges related to coverage and performance. In particular, UNICEF reported that approximately a third of poor households did not

apply for TSA in 2017 due to concerns about the low success rate of TSA applications, language barriers, among others.¹¹⁶

“According to the UNICEF-commissioned Welfare Monitoring Survey (WMS), in the 12 months preceding the 2017 survey, 15.2 per cent of Georgian households applied for some form of social assistance, either through the TSA programme or from other public and non-governmental organisations.”

Law on the Elimination of All Forms of Discrimination (2014)

Georgia's Law on the Elimination of All Forms of Discrimination explicitly prohibits discrimination based on sexual orientation, gender identity, disability, and other protected categories.¹¹⁷ The law charged Georgia's Public Defender with supervising discrimination, studying individual cases, and spreading relevant information.¹¹⁸ The law is limited, however, in that it does not address socio-economic inequality. In 2019, harassment and sexual harassment were regulated as forms of discrimination,¹¹⁹ and in early 2020, Georgia added the Equality and Elimination of Discrimination Chapter to its 2018-20 Human Rights National Action Plan.¹²⁰ The Chapter introduced important commitments pertaining to awareness of hate crimes committed on the basis of sexual orientation and gender identity, discrimination in labour, and improvement of social and health services for the LGBTQIA+ community.¹²¹

However, harassment and discrimination persist, with a number of high-profile cases regarding violence against transgender women and raids on the Tbilisi Pride offices resulting in the cancellation of the Pride march, with perpetrators being acquitted of the most serious charges by the courts. Women have also faced significant discrimination in the country, and Georgia was found to have breached several articles of the Convention on the Elimination of All Forms of Discrimination against Women in 2021.¹²²

The European Union has stated that Georgia's candidacy for membership is conditional upon many issues relating to the improvement of its human rights record.¹²³

South Africa

Promotion of Equality and Prevention of Unfair Discrimination Act (2000)

South Africa's anti-discrimination law is comprehensive, prohibiting discrimination by the government and by private entities based on race, gender, pregnancy, sexual orientation, disability, among other protected categories, and also forbidding hate speech and harassment.¹²⁴ The Act also establishes "equality courts" to hear discrimination complaints, and gives courts discretion to consider factors to establish other protected categories not explicitly mentioned in the Act.¹²⁵

While these are significant protections on paper and inequality has declined among individuals and races since 2008,¹²⁶ racial tensions and other forms of discrimination are still pervasive

in South Africa, and it remains the most unequal country in the world.¹²⁷ High inequality is perpetuated by a legacy of exclusion and slow economic growth that does not reach the poorest segments of society.¹²⁸ This is further manifested in income inequality, whereby it is estimated that the top 10% of the population receives 65% of the country's income share, while the bottom 40% receive only about 4%.¹²⁹

Inequalities were widely witnessed during the COVID-19 pandemic, where rising unemployment and xenophobic sentiments were expressed across South Africa increasing discrimination against foreign nationals, who were afforded blame for poor economic prospects.

While legal protections are formally strong for migrants, enforcement capacities have proven limited. Moreover, despite multiple laws being passed in 2022 to combat Gender-Based

Violence against women, reports remain common and rates high.¹³⁰

USA

Civil Rights Act 1964

The Civil Rights Act is one of the most significant non-discrimination laws to be enacted in the US. It formally ended segregation in public places, putting a stop to the 'Jim Crow' laws, and mandating integration in schools, businesses and other public places.¹³¹ Crucially, the Act forbids discrimination on the basis of race, colour, religion, sex, and national origin. Provisions in the Act place particular focus on correcting inequalities in employment, voting rights, and education, granting federal law enforcement agencies the power to prevent racial discrimination. While enforcement powers were initially weak, subsequent amendments bolstered the opportunities available to litigate under the Act. The Civil Rights Act 1964 has since become generally representative as a cornerstone of civil rights legislation in the US.¹³²

Notably however, the Civil Rights Act 1964, as enacted, does not extend protection to individuals on the basis of sexual orientation or gender identity. However, in 2020, the US Supreme Court ruled that under the Act, an employer may not hire, fire, or otherwise discriminate against such individuals on this basis.¹³³ This notion has been carried forward to The Equality Act, a bill currently in congress, that is seeking amendment to the 1964 Act and other non-discrimination legislation, to codify the above and extend equalities across a variety of indices. Amendments include parity with other protected categories, covering various aspects of public life, including housing rights, the granting of credit, jury selection

processes, and access to public services, among others.¹³⁴ While the Equality Act has been met with some resistance regarding the participation of transgender women in sport and access to gendered public restrooms, it has attracted broad-based public support.¹³⁵



India

The Constitution of India

Originally enacted in 1950, the Constitution of India has been amended over 100 times since. Of particular relevance is the Right to Equality, comprising Articles 14 – 18, and ranging from equality before the law (Article 14), to the prohibition of discrimination on the grounds of religion, race, caste, sex, or place of birth (Article 15); public employment (Article 16), to the abolition of untouchability (Article 17) and titles (Article 18). The prohibition on discrimination extends to actions of the State (15.1) and of individual citizens (15.2).

While Article 15 is prescriptive in the categories of discrimination it permits as constitutional rights, these have been interpreted liberally by the Indian courts to include other grounds affecting the “personal autonomy” of an individual – those that are immutable in nature or only able to be altered at great personal cost.¹³⁶ Despite these interpretations, issues remain with respect to the enforcement of Article 15 in the private sector. While a constitutional right is guaranteed,

there are no comprehensive equality laws existent in India that mandate discrimination-free opportunities within employment. Specific legislation exists, for example, to provide equal pay among genders under the Equal Remuneration Act 1976, but this does not extend to any other personal characteristics other than ‘sex’.¹³⁷ Another example is the Transgender Persons (Protections of Rights) Act 2019, which sets out a number of offences against transgender persons. While recognition of transgender rights is in itself a positive step, limitations to the scope of the Act risk trivialising such offences, limiting imprisonment for infringement up to only 2 years, and containing notable absences with regard to maternity rights.¹³⁸

Recent legislation, such as the Equality Bill 2020, has sought a more comprehensive set of protections for individuals against systemic inequalities,¹³⁹ however at time of writing this bill is yet to be brought into law.



Insights for the Legal Profession

a) The Relevance of Legal Proceedings



The rights to equality and non-discrimination are enshrined in all international human rights treaties.

At the national level, some states only have general constitutional provisions guaranteeing equality, while others have adopted comprehensive equality laws which define types and grounds of discrimination and provide for remedies. It is not the purpose here to identify or analyse all judicial and non-judicial mechanisms available to people who consider themselves victims of discrimination. Rather, we will highlight why litigating equality rights can sometimes be an effective lever to tackle economic inequalities and reduce poverty.

Economic, social and cultural rights underlie numerous aspects of people's conditions of living, including health, employment, education, housing and entrepreneurship. In many countries, unequal access and discrimination in these sectors generate challenging obstacles to economic and social participation and as a result, deepen existing poverty, especially for traditionally marginalised populations (youth, the elderly, women, migrants, LGBTQIA+ communities, and people living with disabilities). Providing people access to justice to seek remedy for these inequalities can help promote inclusive growth.¹⁴⁰

Whilst most economic, social and cultural rights are subject

to progressive realisation due to resource limitations, non-discrimination is an immediate obligation of governments worldwide.¹⁴¹ For instance, since Article 12 of the CESCR only requires states to 'take steps' to realise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, a state could argue that it currently lacks financial resources to guarantee access to quality healthcare for all. On the contrary, if a person or group can claim that an individual's or group's access to health services is denied based on discriminatory grounds, he or she could obtain a change of policy that would benefit a large segment of the population over a shorter time frame.

“The UN Committee on Economic, Social and Cultural Rights and other human rights bodies assert that states have an immediate obligation, even during times of resource constraint, to ensure the fulfilment, without discrimination, of the minimum essential levels of socioeconomic rights.” - Chatham House

Even though the justiciability of economic, social and cultural rights has been challenged in the past, today most experts consider that all human rights are indivisible and interdependent and that arguments against justiciability of such rights are unfounded.¹⁴² Nevertheless, in many national jurisdictions, courts still draw a distinction between civil and political rights that are enforceable and economic, social and cultural rights that would only be guiding principles. Therefore, combining a non-discrimination and an economic, social and cultural rights claim may be more likely to succeed.¹⁴³

However, strategic litigation based on non-discrimination provisions is not a panacea to advance income equality. Many barriers remain to access to justice, especially for marginalised and discriminated persons. Lack of information, geographic inaccessibility of courts and tribunals, costs of legal procedures, among others, may all limit the feasibility of non-discrimination litigation to advance equality.



b) Legal context and challenges

Civil society and non-governmental organisations make an important impact to raise awareness of growing economic disparities and patterns of discrimination, as well as provide recommendations on best practice for all stakeholders, in particular policy-makers, to help in tackling these issues. While the increase in inequality is often considered a secondary problem compared with poverty, the economic divide between rich and poor is increasingly treated as an issue in itself. SDG 10 reflects this paradigm shift, as well as an acknowledgement of the role of inequality and discrimination in limiting development.

The goal of reducing inequalities is closely interlinked with legal issues:

This can be *directly* the case, for example: SDG target 10.3 aims at eliminating discriminatory laws and promoting appropriate legislation to ensure equal opportunities for all. Indeed, much progress remains to be made in many countries to abolish discriminatory provisions, adopt comprehensive

equality laws and offer effective remedies for those who are victims of discrimination.

This can also be *indirectly* the case, for example: strategies identified to reduce economic inequality often involve legal challenges and require legal expertise. At the national level, progressive taxation systems, well-designed labour market rules and institutions, and comprehensive social protection policies are the main levers to ensuring inclusive growth.¹⁴⁴ At the international level, the regulation and monitoring of global financial markets are key to avoiding global economic instability that disproportionately affects the poorest. In both instances, enacting, amending and understanding policies and regulations requires legal expertise; and legal professionals play a vital role in supporting civil society efforts to develop, draft and advocate for the adoption of comprehensive equality laws, and challenge discriminatory laws through advocacy as well as litigation. Lawyers also have a role in ensuring that these and other development policies are non-discriminatory in purpose and effect.



c) So, what can lawyers do?



Learn and Educate

Lawyers can enhance their understanding of the mechanisms underpinning inequality along with the policy and programmatic efforts to reduce it. This is important at all levels: national, regional and international.

International organisations, such as the World Bank,¹⁴⁵ the International Monetary Fund¹⁴⁶ or the OECD,¹⁴⁷ produce

substantial research and analysis on inequality and its impact on economic growth, and are useful resources as global discourses continue to develop rapidly on the nature and impact of inequalities around the world. In addition, civil society organisations, notably Oxfam, report regularly on the concentration of wealth in the hands of the richest 10% and closely monitor policies affecting economic disparities.¹⁴⁸

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. Law firms can play a role in furthering the achievement of SDG 10 by ensuring that their own offices are champions of diversity and inclusion at all levels. To begin with, law firms should pay attention to diversity at entry level roles, from trainees and new qualified lawyers to those at the partner level. When recruiting for new and lateral hires, law firms should be cognisant of the level of the diversity within their offices and consider the role of unconscious bias within hiring practices.

Leadership positions in law firms should be equally available to everyone irrespective of gender, race, religion, or sexual orientation. There should be a transparent process for

promotion and progression within the firm that is applicable to everyone. Finally, all those working in law firms should receive equal pay for equal work; bonuses and salary increases should be available to all on an equal basis irrespective of race, gender, religion, or sexual orientation.

“Diversity is sometimes said to be the enemy of merit... [but] the more inclusiveness we have the bigger the pool of potential judges, and the bigger that pool the higher the quality of judges” - Lord Justice Neuberger

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, cross-sector 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 local context and the national legal environment. These partnerships not only help to broaden the impact of the firm's

pro bono work, but also ensure that it adequately responds to the local context and needs.

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.

In the specific context of SDG 10, this can be achieved in numerous ways as outlined below.

Domestic and International Pro Bono

The SDGs present a compelling opportunity for law firms, corporate legal departments and other lawyers to expand their pro bono legal activities domestically and abroad. This is particularly necessary as growing income inequality has made the justice gap worse by reducing public funds available for legal aid, while also making it more difficult for low-income persons to independently afford legal assistance.

Thus, lawyers should take on pro bono projects that target low-income communities, or those that otherwise lack sufficient legal access. From representing affected individuals at trial, to helping them fill out their applications for government benefits, lawyers are uniquely situated to lend their expertise to those in need. Lawyers should also work with organisations that assist refugees and migrants, assisting to present their

claims to refugee status, claim asylum, and otherwise meeting their legal demands with regards to integration into society.

While a business can afford to focus solely on profits, a profession cannot. It must devote itself first to the community it is responsible to serve. I can imagine no greater duty than fulfilling this obligation. And I can imagine no greater pleasure.” – Justice Sandra Day O’Connor

Litigation

Lawyers can also employ their legal expertise for the advancement of equality by challenging discrimination through litigation. Lawyers are uniquely situated in that they are able to strategically leverage particular cases into broad challenges of discriminatory legislation, which may result in judicial review or legislative revision of discriminatory laws.¹⁴⁷

Strategic litigation also serves as an effective tool for highlighting discriminatory practices to journalists and the media, which in turn can motivate societal action and develop greater social awareness around individual rights and protections.

Supporting NGOs

Lawyers can also participate in projects that focus on global inequality and poverty. Law firms can establish relationships and partnerships with NGOs that provide grassroots assistance to communities in developing countries.

Legal support can be provided in several ways. Lawyers can, for example, raise awareness and provide training on equality and non-discrimination legal frameworks; they can support the drafting of more comprehensive equality legislation or reform, or advise on the create of a monitoring body on equality and non-discrimination.

Similarly, judges, lawyers and other legal professionals can exchange ideas with their foreign counterparts and contribute to mutually strengthen their skills and knowledge on non-discrimination; and law firms can also contribute to the development of legal training in areas lacking local educational opportunity. Lawyers can also partner with organisations that assist complainants for strategic litigation before national or international fora with the potential of advancing equality outcomes.



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