

SDG 4: QUALITY EDUCATION



A LEGAL GUIDE



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

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

Legal Guide to the SDGs

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

Role of Law in Increasing Access to Quality Education for All

Quality education is fundamental to sustainable development. Education is the one of the most powerful tools by which people can lift themselves out of poverty and fully participate in their communities. In particular, educating girls has proven to be one of the most impactful ways of breaking the cycle of poverty. Girls with an education can better access the labour market and get jobs with higher wages. Better educated women can make informed choices about matrimony, maternity, and the nutrition and health of their children. Education also helps women to take on leadership roles in public life, contributing to the decisions that will affect their lives and their communities.

The importance of education is not limited to its potential to

combat poverty and realise other human rights. As the United Nations Committee on Economic, Social and Cultural Rights states, “a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence”. Education is also a human right in itself. The right to education for all and without discrimination has been recognised by a large number of international treaties and States have an obligation to protect and fulfil this right.

Under the impetus of the Millennium Development Goals (MDGs), substantial progress has been made in recent decades to increase the number of children going to school. For instance, in the least developed countries, the primary school enrolment ratio rose from 60% in 2000 to more than 80% today. However, this overall improvement does not tell the full story. Regional discrepancies remain striking and without additional investment in teachers, infrastructure

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and learning materials, increased enrolment rates do not necessarily lead to better learning outcomes. Moreover, education systems worldwide have been hit hard by the COVID-19 pandemic and the subsequent school closures, which threaten to wipe out the recently gained progress and widen existing educational inequalities.

SDG 4 sets specific targets to address these challenges and provides a comprehensive framework to achieve inclusive and equitable quality education for all. Beyond enrolment rates, SDG 4 puts a welcomed emphasis on quality education and learning outcomes. The targets cover lifelong education from early childhood development to university and vocational training. Special attention is also given to eliminating gender disparities and ensuring equal access to education for vulnerable children.



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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 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all

In the context of SDG 4, the key terms are defined as follows:

‘Inclusive’: According to the United Nations Educational, Scientific and Cultural Organisation (UNESCO), inclusive education is ‘a process that helps to overcome barriers limiting the presence, participation and achievement of learners.’¹ The goal is to ensure ‘full participation and access to quality learning opportunities’ for everyone.² Inclusive

education can therefore also be understood as ‘a process of strengthening the capacity of the education system to reach out to all learners’.³ Sometimes referred to as ‘education for all’, inclusive education should take into account the needs of all learners, including the poor and the most disadvantaged, ethnic and linguistic minorities and those with special learning needs.⁴

1 United Nations Educational, Scientific and Cultural Organization (2017). *A Guide for ensuring inclusion and equity in education*. [online] p. 7. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000248254>

2 UNESCO (2019). *Cali commitment to equity and inclusion in education*. [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000370910>

3 UNESCO (2009). *Policy Guidelines on Inclusion in Education*. UNESCO [online]. Available at: <http://unesdoc.unesco.org/images/0017/001778/177849e.pdf>

4 World Education Forum (2000). *The Dakar Framework for Action - Education for All: Meeting our Collective Commitments, Adopted by the World Education Forum, Dakar, Senegal, 26-28 April 2000* [online]. Available at: <http://unesdoc.unesco.org/images/0012/001211/121147e.pdf>

‘Equitable’: Inclusivity and equity are closely intertwined. In education, the term equity refers to the principle of fairness, which implies making sure that personal and social circumstances – for example gender, socio-economic status or ethnic origin – are not a barrier to accomplishing educational potential.⁵

‘Quality’: Quality education is ‘a dynamic concept that changes and evolves with time, as well as the social, economic, and environmental context.’⁶ Although it is impossible to define universal standards of quality education for every culture and every person at any moment, UNESCO and the United Nations International Children’s Fund (UNICEF) have developed two commonly used indicators. First, the effectiveness of education in achieving cognitive development and, second, the ability of education to ‘promote creative and emotional development, supporting the objectives of peace, citizenship and security, fostering equality and passing global and local cultural values down to future generations’.⁷

The Education 2030 Framework For Action requires ‘foundational skills of literacy and numeracy as well as analytical, problem-solving and other high-level cognitive, interpersonal and social skills’ to be delivered by ‘well-qualified, trained, adequately remunerated and motivated teachers’ in ‘safe, healthy, gender-responsive, inclusive and adequately resourced environments’.⁸

‘Lifelong Learning’: Learning is ‘not bound to a specific age (childhood and adolescence), but continues throughout life’.⁹ Hence, learning education should be available for every age and gender; in all contexts (family, school, community, workplace, etc.); cover all levels (school to higher education); and be delivered through formal and non-formal channels to cover out-of-school learners.¹⁰



5 Organisation for Economic Co-operation and Development (2008). *Ten Steps to Equity in Education, Policy Brief*. [online]. Available at: <http://www.oecd.org/education/school/39989494.pdf>

6 UNESCO (2005). *Contributing to a More Sustainable Future: Quality Education, Life Skills and Education for Sustainable Development*. [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000141019>

7 UNICEF and UNESCO (2007). *A Human Rights-Based Approach to Education for All*. [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000154861>

8 UNESCO (2016). *Education 2030, Incheon Declaration towards inclusive and equitable quality education and lifelong learning for all*. [online]. Available at: http://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf

9 UNESCO, (2018). *Recognition, validation and accreditation of youth and adult basic education as a foundation of lifelong learning*. [online]. Available at: <https://bit.ly/3mg7kt1>

10 UNESCO Institute for Lifelong Learning (2014). *Technical Note on Lifelong Learning*. [online]. Available at: <https://uil.unesco.org/fileadmin/keydocuments/LifelongLearning/en/UNESCOTechNotesLLL.pdf>

Overview of the targets

Made up of 10 targets, SDG 4 recognises the fundamental importance of access to quality education. This aim has always been at the heart of the UN's sustainable development agenda, given the 'key role of education in shaping values that are supportive of sustainable development'.¹¹

SDG 4 builds on the targets set by previous goals, including MDG 2 in pursuit of universal primary education by 2015, and the Dakar Framework for Action on Education for All (EFA), which among other aims, focused on eliminating gender disparity at all levels of education by 2015.¹² Similarly, the language of SDG 4 aims to ensure access to all levels of education and learning for all, irrespective of age, gender, ethnicity, disability or other circumstance.

However, unlike the MDGs, SDG 4 goes beyond enrolment rates and clearly puts an emphasis on quality education. Governments often focus their efforts on broadening access to education (as they did under the MDGs), without considering that increased enrolment rates require additional investment in, amongst other things, learning materials, teachers, and infrastructure.¹³

Since 2000, substantial progress has been made in certain areas. For instance, the primary school net enrolment ratio rose to 80.77% in the least developed countries (LDCs) in

2018, compared to 60.4% in 2000. There was a decrease in the number of children out of primary school worldwide, from 15% to 9% between 2000 and 2010. However, this figure only dropped by 1% in the subsequent 8 years.¹⁴ In 2015, UNESCO admitted that 'for all this progress, 15 years of monitoring shows sobering results', with not a single one of the MDG or EFA targets met by all countries that provided data.¹⁵

The positive, albeit too slow, evolution of global education sets the context for the significant challenges in achieving SDG 4. These challenges were highlighted during the 2015 technical review of the draft SDGs. This noted, for example, that the target of achieving universal secondary education by 2030 seemed unrealistic given that upper secondary gross enrolment was only 32% in sub-Saharan Africa in 2012.¹⁶ The importance of political commitment to the furtherance of education and learning goals will be highly relevant for the success of SDG 4. The 2017 report on the SDGs echoes this and calls for 'intensified efforts – particularly in sub-Saharan Africa and Southern Asia – targeted to vulnerable populations' to achieve SDG 4 by 2030.¹⁷

A publication by the UNESCO Institute for Statistics and the Global Education Monitoring Report for the 2019 High-level Political Forum on Sustainable Development confirms that the world is still off track:

11 United Nations Sustainable Development Goals Knowledge Platform. SDG 4: Education. United Nations [online]. Available at: <https://bit.ly/3gkQUfo>

12 World Education Forum (2000). *The Dakar Framework for Action - Education for All: Meeting our Collective Commitments. Adopted by the World Education Forum, Dakar, Senegal, 26-28 April 2000.* [online]. Available at: <http://unesdoc.unesco.org/images/0012/001211/121147e.pdf>

13 Right to Education (n.d.). *Education 2030, The link between the right to education and Education 2030.* [online]. Available at: <https://bit.ly/3swcN09>

14 World Bank (2019). *World Development Indicators.* [online]. Available at: <https://databank.worldbank.org/reports.aspx?source=2&series=SE.PR.M.NENR&country=>

15 UNESCO (2015). *Education for All 2000-2015: Achievements and Challenges, EFA Global Monitoring Report.* [online]. Available at: <https://bit.ly/3ydWLT7>

16 Ibid. p.24.

17 United Nations (2017). *The Sustainable Development Goals Report 2017.* [online]. Available at: <https://bit.ly/3swcDWB>

'Only one in two young people complete secondary school. Of those who are in school, fewer than one in two reach a minimum level of proficiency in reading and mathematics by the end of primary; in sub-Saharan Africa, only one in ten do so, while the percentage of trained teachers is trending downwards'.¹⁸

Closure of schools due to the COVID-19 pandemic has led to significant learning losses for those enrolled in school. Initial data has shown that most low and lower-middle-income

countries have not yet implemented measures to provide remote learning alternatives. Many of the most vulnerable children are at risk of not returning to school even when schools have reopened.¹⁹ Therefore, it is expected that pre-pandemic trends will be detrimentally affected in the coming years.

The following breakdown of each SDG 4 target provides an insight into the current global situation on education and reveals the pressures and issues relevant to the achievement of each target.

TARGET 4-1



By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and SDG 4 effective learning outcomes

The indicator for this target is defined as the proportion of children and young people achieving at least a minimum proficiency level in reading and mathematics.²⁰

The global primary school net enrolment rate was 89.41% in 2018, with little progress in the last ten years, reflecting pockets of exclusion and hard-to-reach populations. The secondary school net enrolment rate was 66.27% in 2018.²¹ There is still a lot of room for improvement regarding the school completion rate. Even though 81% of children are in

school in sub-Saharan Africa, just 63% complete primary education. This situation is even worse for lower secondary education, where 63% of children aged 12-14 years enrol in school, but only 38% complete it.²² Due to the impact of the COVID-19 pandemic, it is expected that school completion rates will slow or reverse.

Going beyond school enrolment and completion rates, this target also refers to learning outcomes. However, the associated indicator for this has been highly controversial. Firstly, it measures progress in learning outcomes by the percentage of children in school achieving a minimum learning proficiency level in reading and mathematics. However, the methodology or standards to assess this level have not yet been agreed upon internationally.²³ The Global Alliance to Monitor Learning (GAML) is developing

18 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

19 UNESCO (2021). *What's Next? Lessons on Education Recovery: Findings from a Survey of Ministries of Education amid the Covid-19 Pandemic.* [online]. Available at: http://covid19.uis.unesco.org/wp-content/uploads/sites/11/2021/07/National-Education-Responses-to-COVID-19-Report2_v3.pdf

20 United Nations Sustainable Development Goals Knowledge Platform. SDG 4: Education. United Nations [online]. Available at: <https://bit.ly/3gkQUfo>

21 UNESCO Institute for Statistics (2019). *Education Statistics.* [online]. Available at: http://data.uis.unesco.org/Index.aspx?DataSetCode=edulit_ds

22 UNESCO Institute for Statistics (2019). *Combining Data on Out-of-school Children, Completion and Learning to Offer a More Comprehensive View on SDG 4, Information Paper No. 61.* [online]. Available at: <https://bit.ly/3gisaEw>

23 United Nations Statistics Division (2018). *Tier Classification for Global SDG Indicators.* [online]. Available at: <https://bit.ly/3yZubg2>

a framework for a common benchmark that links existing learning assessment studies.²⁴ Secondly, due to their restrictive nature, indicators are unable to measure all dimensions comprehensively. As universal education expands, the learning outcomes may decrease initially since the education system needs time to adjust to more disadvantaged students. In its Information Paper, the UNESCO Institute for Statistics highlights the example of Indonesia, where the proportion of 15-year-olds achieving a minimum proficiency in science fell by 5% within 6 years while the number of 15-year-old students increased by 12%

at the same time.²⁵ Overall, the amount of children in that age group who were in school and achieved the minimum proficiency increased, while the value for the indicator actually declined. As a result, success for target 4.1 cannot only be accurately measured by the defined indicator.

To provide a more accurate view of the education situation, the UNESCO Institute for Statistics has combined 'enrolment and completion indicators with SDG Indicator 4.1.1 to produce a quality-adjusted enrolment and completion rate'.²⁶



By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education

Two indicators are used to measure success for this target. The first indicator covers the proportion of under 5-year-olds 'who are developmentally on track in health, learning and psychosocial well-being'.²⁷ Only recently, in March 2019, the Inter-Agency and Expert Group on SDG Indicators agreed on a methodology to assess early childhood development. Until this methodology is generally adopted, achievements for target 4.2 are still assessed through the UNICEF Early Childhood Development Index (ECDI). Based on ten questions, the ECDI

covers the physical state, social-emotional development, learning approaches and literacy-numeracy skills of children. The availability of country-specific data is low, with only 66 countries providing data. On average, 76% of 3 to 4-year-olds in the countries that have disclosed data are 'developmentally on track'. Remaining challenges include malnutrition, difficult home environments and lack of access to early childhood care and education.²⁸

The second indicator covers the participation rate of children, one year below the official primary entry age, in organised learning.²⁹ The global participation rate changed only slightly from 67% in 2014 to 69% in 2017.^{30,31} However, the rate varies widely between 42% in low-income countries and 93% in high-income countries. Pre-pandemic projections predicted that the

24 UNESCO (2017). *Global Alliance to Monitor Learning*. [online]. Available at: <http://gaml.uis.unesco.org/>

25 UNESCO Institute for Statistics (2019). *Combining Data on Out-of-school Children, Completion and Learning to Offer a More Comprehensive View on SDG 4*, Information Paper No. 61. [online]. Available at: <https://bit.ly/3gisaEw>

26 Ibid. p.7

27 United Nations Sustainable Development Goals Knowledge Platform. SDG 4: Education. United Nations [online]. Available at: <https://bit.ly/3gkQUfo>

28 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

29 United Nations Sustainable Development Goals Knowledge Platform. SDG 4: Education. United Nations [online]. Available at: <https://bit.ly/3gkQUfo>

30 United Nations (2017). *The Sustainable Development Goals Report 2017*. [online]. Available at: <https://bit.ly/3y2Zy8f>

31 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

global share of children who attend organised learning one year before the official primary entry age would reach 82% in 2030.³²

In 2016, a UNESCO Report noted that only 50 out of 207

countries and territories had compulsory pre-primary education and 38 countries had free and compulsory pre-primary education for at least one year.³³

TARGET 4-3



By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university

This target calls for equal access to lifelong learning beyond compulsory education. It encompasses formal and non-formal education for youth and adults for work and non-work purposes.³⁴

The global gross enrolment ratio in tertiary education reached 38% in 2018. However, it ranges vastly from 9% in low-income countries, to 75% in high-income countries. In these two income groups, the numbers have only marginally changed in the past ten years. The biggest improvements can be observed in middle-income and upper-middle-income countries, in East Asia and the Pacific, where the gross enrolment ratio increased by over 10% between 2013 and 2018.³⁵

The total global enrolment in secondary vocational education reached 62.5mn in 2018, a number which is slowly starting to increase again after having dropped, following a peak at over 65 mn in 2013.³⁶



32 Ibid

33 UNESCO (2016). *Education for people and planet: Creating sustainable futures for all: Global Education Monitoring Report*. [online]. Available at: <https://bit.ly/2W714Kz>

34 UNESCO (2019). *Migration, Displacement and Education: Building Bridges, not Walls, Global Education Monitoring Report*. [online] Available at: <https://bit.ly/3D3R4Bp>

35 UNESCO Institute for Statistics (2019). *Education Statistics, 'Gross enrolment ratio, tertiary, both sexes'*. [online]. Available at: <https://bit.ly/2Wf1iy8>

36 The World Bank (2019). *Secondary education, vocational pupils*. [online]. Available at: <https://bit.ly/3z5LThR>

TARGET 4-4

By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship

The indicator agreed for this target focuses on information and communications technology (ICT) skills. The rationale being that it measures skills beyond literacy and numeracy that are highly important for today's working world around the globe. Additionally, it invites States to offer ICT education in and outside school.³⁷

To measure the proportion of youth and adults mastering these skills, individuals are asked through household surveys whether they have carried out nine specific digital activities

in the last three months. According to a household survey carried out by the International Telecommunication Union in 2017, one in three participants in middle-income countries copied or moved a file or folder in the last three months, compared to two in three in high-income countries. The skill that was used the least of the nine computer skills surveyed was programming, with a global average of only 5% of people having programmed in the last three months.³⁸ Generally, data coverage is insufficient outside high-income countries.³⁹

In addition to the difficulties of collecting enough data, this indicator has suffered criticism for solely focusing on ICT skills. At the moment, there is no indicator capturing financial literacy skills and attempts to capture social-emotional skills remain challenging, although these skills constitute key competences for employment as well.⁴⁰

TARGET 4-5

By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations

Measurement of progress towards this target involves comparing education indicators for different groups. For instance, female/male, urban/rural, richest/poorest, as well as other factors that could impact an individual's access to quality education, such as disability status. This will be done as the

data becomes available. The greatest challenge for achieving equitable education appears to be disparities in wealth.⁴¹ A 2016 assessment showed that inequity constitutes a major challenge, with children from the richest 20% of households achieving greater proficiency in reading than those from the poorest households. According to the Global Education Monitoring Report from 2019, rural students in low- and middle-income countries are 50% less likely to complete upper secondary education compared to urban students.⁴²

In light of the COVID-19 pandemic, disparities in wealth have played a major factor in influencing how well the schools and

37 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

38 Ibid

39 UNESCO (2019). *Migration, Displacement and Education: Building Bridges, not Walls, Global Education Monitoring Report.* [online] Available at: <https://bit.ly/3D3R4Bp>

40 Ibid

41 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

42 UNESCO (2019). *Migration, Displacement and Education: Building Bridges, not Walls, Global Education Monitoring Report.* [online] Available at: <https://bit.ly/3D3R4Bp>

the learners responded to the closure of schools.⁴³

As far as gender is concerned, although the overall rate of girls that are out-of-school is higher, the female students who are in school have better reading proficiency than their male counterparts.⁴⁴ In 2017, gender parity was achieved in terms of the global average enrolment rates up to secondary education. Excluding primary education in sub-Saharan Africa, there was also gender parity on average in all regions in primary and lower secondary education. However, only 24% of all countries reached gender parity in upper-secondary education.⁴⁵ Notably, reduced access of women and girls to technology during the pandemic has further restricted girls' access to education.⁴⁶

Although the SDG Agenda pledges to 'leave no one behind' and this target calls for equal access to education for all children, it is concerning that this target and its indicators are silent on some of the most important factors of discrimination, especially race and ethnicity, which have historically barred many children from accessing quality education.⁴⁷ UNESCO's 2020 report on Inclusion and Education, stated, 'Laws and policies set the framework for achieving inclusion in education.'⁴⁸ The links between racial inequalities and unequal access to quality education persist today and addressing these disparities should be central to efforts to deliver quality education *for all*.



43 UNESCO (2021). *What's Next? Lessons on Education Recovery: Findings from a Survey of Ministries of Education amid the Covid-19 Pandemic*. [online]. Available at: http://covid19.uis.unesco.org/wp-content/uploads/sites/11/2021/07/National-Education-Responses-to-COVID-19-Report2_v3.pdf

44 United Nations (2017). *The Sustainable Development Goals Report 2017*. [online]. Available at: <https://bit.ly/3y2Zy8f>

45 UNESCO (2019). *Migration, Displacement and Education: Building Bridges, not Walls, Global Education Monitoring Report*. [online] Available at: <https://bit.ly/3D3R4Bp>

46 UNESCO (2021). *What's Next? Lessons on Education Recovery: Findings from a Survey of Ministries of Education amid the Covid-19 Pandemic*. [online]. Available at: http://covid19.uis.unesco.org/wp-content/uploads/sites/11/2021/07/National-Education-Responses-to-COVID-19-Report2_v3.pdf

47 SPSSI and PCUN (2015). *Integrating the Elimination of Inequalities due to Racism into the Framework of the UN Post-2015 Sustainable Development Agenda: Recommendations from Civil Society*. [online]. Available at: <https://sustainabledevelopment.un.org/content/documents/14989RacismPost2015SDGAdvocacyDoc526.pdf>

48 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

TARGET 4.6

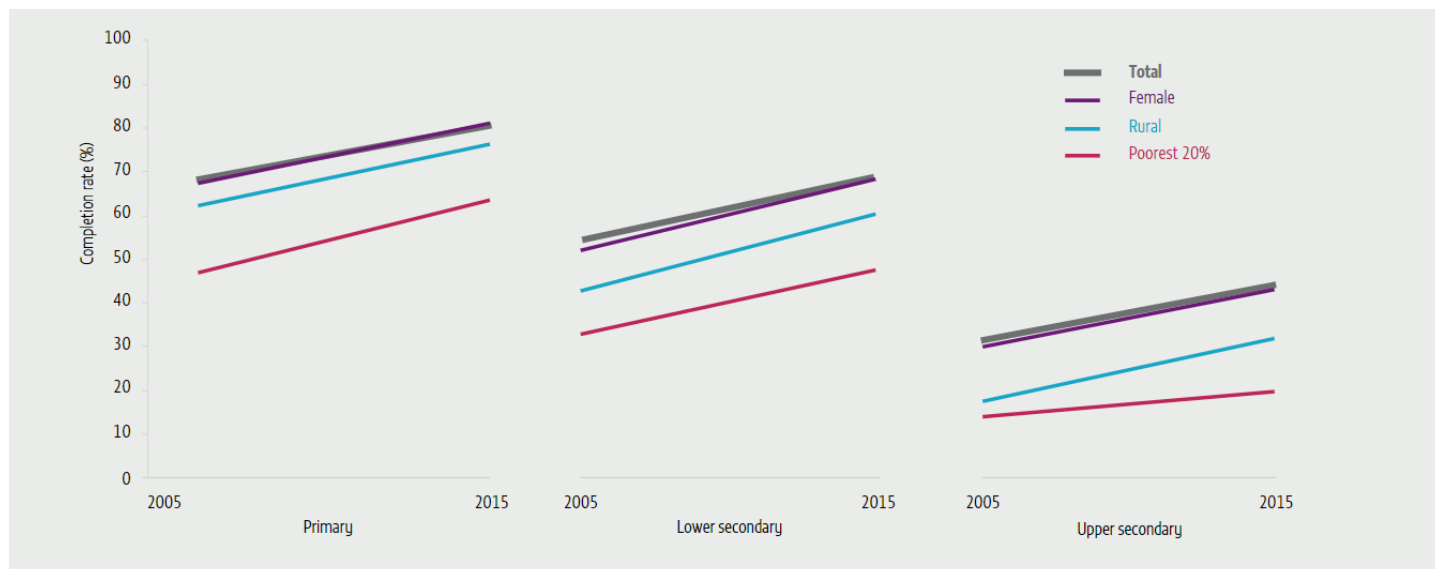


By 2030, ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy

In 2018, the youth (aged 15-24) literacy rate for men was 92.9%, compared to 90.4% for women. For adults (aged 15+), the literacy rate for men was 89.8% in 2018, compared

to 82.8% for women. With an adult literacy rate of 65.6%, Sub-Saharan Africa lies more than 20% behind the global average.⁴⁹

School closures due to the COVID-19 pandemic have severely impacted literacy rates, with gains made over the last 20 years being wiped out for children in grades 1-8.⁵⁰



Source: GEM Report team estimates based on household survey data. GEM StatLink: http://bit.ly/GEM2020_fig1_5.

49 World Bank (2019). *World Development Indicators*. [online]. Available at: <https://databank.worldbank.org/reports.aspx?source=2&series=SE.PRM.NENR&country=>

50 United Nations Economic Social Council (2021). *Progress towards the Sustainable Development Goals: Report of the Secretary-General 2021 Session*. [online]. Available at: <https://undocs.org/en/E/2021/58>.

TARGET 4.7



By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development

This is arguably the most challenging target to interpret and measure, as such outcome-orientated wording is hard to define globally. At the moment, the indicator for target 4.7 describes the circumstances required for sustainable development, human rights and global citizenship education by measuring the 'extent to which (i) global citizenship education and (ii) education for sustainable development, including gender equality and human rights, are mainstreamed at all levels in: (a) national education policies, (b) curricula, (c) teacher education and (d) student assessment'.⁵¹

No internationally established methodology or standards are yet available for this indicator and there is very limited data on which to judge progress to-date.⁵² The 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace Education relating to Human Rights and Fundamental Freedoms is used to measure the success of target 4.7. In the sixth

consultation round in 2016, 83 countries submitted reports about implementation of the Recommendation's guiding principles in their education system. Almost 60% of the countries reported that the Recommendation had been 'fully reflected' in national education policies and in more than 80% of the countries, student assessments had included the principles.⁵³ However, only 17% of the countries reported that working teachers received education that 'fully reflects' the Recommendation and teaching hours dedicated to the principles were not 'fully sufficient' in 79% of the countries.⁵⁴

UNESCO described target 4.7 as providing 'learners with the knowledge and competencies they need to make all the SDGs a reality'.⁵⁵ Education plays a fundamental role in the achievement of sustainable development, as it raises awareness of global issues and provides individuals with the essential skills and knowledge to act upon them. Therefore, SDG 4.7 is a 'critical goal' on its own, as an enabler of other SDGs. Hence, it ensures the 'overall success of Agenda 2030' like no other target.⁵⁶

UNESCO described target 4.7 as providing 'learners with the knowledge and competencies they need to make all the SDGs a reality.'

51 United Nations Sustainable Development Goals Knowledge Platform. SDG 4: Education. United Nations [online]. Available at: <https://bit.ly/3gkQUfo>

52 United Nations Statistics Division (2018). *Tier Classification for Global SDG Indicators*. [online]. Available at: <https://bit.ly/3yZubg2>

53 UIS and UNESCO (2019). *Meeting Commitments. Are countries on track to achieve SDG 4?* [online]. Available at: <https://bit.ly/3k8OLEC>

54 UNESCO (2019). *Migration, Displacement and Education: Building Bridges, not Walls, Global Education Monitoring Report*. [online] Available at: <https://bit.ly/3D3R4Bp>

55 UNESCO (2017). *A transformative target: SDG 4.7's challenges and promise in Asia-Pacific*. [online]. Available at: <https://bit.ly/3gCkkpx>

56 Rosaria, K. M. and Deirdre, Naughton. (2019). *Characteristics of Target 4.7 and The Importance of its Inclusion to the Sustainable Development Goals*. Bridge 47 Network, [online] Available at: <https://bit.ly/37ZM0Qi>

Key actions lawyers can take

The final section of this chapter provides more details on how the international legal community can engage in efforts to achieve SDG 4. However, the following short summary

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

Learn and educate

There is substantial research examining the right to education available, including resources that specifically analyse progress towards the targets of SDG 4. Lawyers should seek to build their knowledge of the policy and programmatic efforts to promote the right to education at

local, national, regional and international levels. By actively engaging in this topic and reading this guide, lawyers will be equipped to play a key role in promoting legal and policy reform towards the achievement of SDG 4.

Integrate

As employers, law firms are required to take steps to remove any potential discrimination towards employees, particularly during the employment process. Beyond meeting the minimum legal requirements, the legal sector should lead by

example in taking a proactive, inclusive approach to people development, and work to foster and support a more diverse workforce. Towards this aim, law firms can join a variety of schemes that promote social mobility within the sector.

Act

The legal sector has an important role in promoting a human rights-based approach to education. Lawyers should work to hold States accountable for their obligation to respect, protect and fulfil the right to education, as recognised in numerous international and regional treaties. Lawyers can also contribute to the achievement of SDG 4 by engaging in public legal education to increase the general public's awareness of their rights; help people make better decisions

regarding everyday legal issues; and improve their ability to access legal advice and justice.

More broadly, law firms, corporate legal departments, judiciaries and barrister's chambers can partner with A4ID to provide pro bono legal advice to international organisations and NGOs to support their work to realise the right to education for all around the world.

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 in the articulation and advancement of fundamental human rights and freedoms. In thirty 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 with many of its provisions widely regarded as customary international law. Moreover, many of its provisions were later adopted in binding international human rights

instruments.

The UDHR is the first international legal instrument to recognise, under Article 26, the right of all individuals to education. In particular, it asserts the right to free, compulsory elementary level education; generally available technical and professional education; equal access to higher education based on merit; and parents' rights to choose their children's education.

The purpose of education is defined broadly as pursuing 'the full development of human personality'.

UNESCO Convention against Discrimination in Education

Adopted by the UNESCO General Conference: 14 December 1960

Entered into force: 22 May 1962

Status of ratification (as of July 2021): 105 Parties

The Convention against Discrimination in Education (CADE) was the first international instrument focusing on education, which had binding force in international law and is acknowledged by UNESCO's Executive Board as a key pillar for the EFA process.⁵⁷

Under CADE, all persons, regardless of race, ethnicity, gender,

class, age, disability religion, political leanings or any other circumstance or opinion, have the right to access and receive an equal standard of education at any level. The UNESCO Committee on Convention and Recommendations monitors the implementation of CADE and investigates complaints. States must submit periodic reports concerning their national policies.⁵⁸

Article 4 of CADE directs its State Parties to ensure primary education is free of charge and compulsory; secondary education is generally available and accessible to everyone; and tertiary education is equally accessible to all based on individual capacity. Discriminatory policies concerning

⁵⁷ Right to Education (n.d.). *UNESCO Convention against Discrimination in Education*. [online]. Available at: <http://www.right-to-education.org/page/unesco-instruments>

⁵⁸ Ibid.

education must be abolished and national policies establishing free, compulsory primary education must be implemented. States are obliged to offer equal educational opportunities and ensure freedom from discrimination in admission to educational institutions.

CADE also requires States to make provisions for teacher training, ensure equivalent standards of education throughout

all public educational institutions, and promote the education of individuals who missed out on primary education. Article 5 sets out the aims of education, the freedom of parents to choose their children's education – particularly their moral and religious education – and acknowledges the rights of minorities to carry on their own education activities.⁵⁹

International Covenant on Economic, Social and Cultural Rights

Adopted by the UN General Assembly: 16 December 1966

Entered into force: 3 January 1976

Status of ratification (as of July 2021): 170 Parties

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

Article 2 of the ICESCR reflects a 'progressive realisation principle', imposing a duty on a State Party to 'take steps... to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means'.

Inspired by CADE, Article 13 of the ICESCR is the most comprehensive article on the right to education, recognising a universal right to education and parents' rights over their

children's education. It sets out five steps for achieving this:

- i. Free, compulsory primary education
- ii. Generally available and accessible secondary education, through the progressive introduction of free education
- iii. Equal access to higher education on the basis of capacity
- iv. The encouragement of fundamental education for those who have not received primary education
- v. The development of school systems

Article 14 of the ICESCR requires State Parties to formulate a plan for the implementation of compulsory, free primary education.⁶⁰

The Committee on Economic, Social and Cultural Rights (CESCR), established in 1985, monitors implementation and compliance with the ICESCR. States are required to submit periodic reports to the Committee on how the rights guaranteed by the Covenant are implemented. The Committee examines each report and addresses its concerns and recommendations to the State Party in the form of 'concluding

⁵⁹ The General Conference of UNESCO (1960). Convention against Discrimination in Education, Article 5. [online]. Available at: <https://bit.ly/3zaVCnq>

⁶⁰ United Nations Economic and Social Council (1999). *Implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment N°13 (Twenty-first session, 1999), The right to education (article 13 of the Covenant)*. Document E/C.12/1999/10. OHCHR [online]. Available at: <https://docstore.ohchr.org/SelfServices/FilesHandler>

observations’.

The Committee also publishes its interpretation of the provisions of the Covenant, known as general comments. Of particular relevance for SDG 4, are General Comment No.11 on Article 14, which covers plans of action for primary education, and General Comment No.13, which focuses on the right to education.⁶¹

In 2009, an Optional Protocol to the Covenant was adopted giving the Committee on Economic, Social and Cultural Rights the ability to receive and consider individual communications from persons claiming to have had their rights under the Covenant violated. It entered into force in 2013, and yet this Protocol has only been ratified by 24 States so far.

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 July 2021): 189 Parties

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) defines what constitutes discrimination against women and sets forth an agenda to end it. As with some other human rights instruments, a Committee is in place to monitor compliance with the Convention.

Article 10 guarantees women’s rights to education, promotes gender equality at every educational level, and seeks to eliminate gender stereotypes from all forms of education.

The right to education enshrined under Article 10 is based on five core principles:

- i. Elimination of all forms of discrimination to ensure that women and girls receive equal opportunity to men and boys to the same quality and type of education, and have the same potential to benefit from such education.

- ii. Education is not limited to primary and secondary education. An expansive framework is adopted to include all levels of education from pre-school through to the tertiary level in academic and technical-vocational fields, as well as sports and physical education and continuing education.
- iii. Education must be available, accessible, acceptable, and adaptable to women and girls in urban, as well as in rural areas, and to all disadvantaged groups.
- iv. Primary measures, including the elimination of stereotypical concepts of the roles of men and women in society, must be supported with a number of related, complementary measures that are designed to enhance the right of women and girls to education and to make free choices in fields of study and careers to be pursued.
- v. Promoting the right of women and girls to education facilitates the enjoyment of rights in their personal and family life, as well as in their political and public life⁶²

61 Office of the High Commissioner for Human Rights (1999). *CESCR General Comment No. 11: Plans of Action for Primary Education (Art. 14)*. Adopted at the Twentieth Session of the Committee on Economic, Social and Cultural Rights. Document E/1992/23. RefWorld [online]. Available at: <http://www.refworld.org/docid/4538838c0.html>

62 UNICEF. *Fact Sheet: A summary of the rights under the Convention on the Rights of the Child*. [online]. Available at: https://www.unicef.org/french/crc/files/Rights_overview.pdf.

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 July 2021): 196 Parties

The United Nations Convention on the Rights of the Child (CRC) is an international human rights treaty that sets forth the civil, political, economic, social, health and cultural rights of children. It defines a child as any human being under the age of 18, unless the age of majority is attained earlier under national legislation. Compliance is monitored by the UN Committee on the Rights of the Child. The CRC is the most widely ratified international human rights treaty. Notably, the United States is the only country that has signed, but not ratified, this Convention.

Article 28, on the right to education, requires Member States

to provide free compulsory primary education for all children, and to develop accessible and free secondary education and accessible higher education based on capacity. It indicates that discipline in schools should respect children's dignity and governments are encouraged to make sure that school administrators revise their policies and cease practices involving physical or mental violence, abuse or neglect.⁶³ Article 28 also encourages international cooperation on education matters, with a view to sharing modern teaching methods and addressing the needs of 'developing countries'.

Article 29, on the aims of education, requires States to provide a broad education. It not only directs States to use education to develop children's mental and physical talents, but also to teach respect for human rights, the natural environment and the child's parents and culture.⁶⁴



63 Committee on the Rights of the Child (2001). *General Comment No. 1, Article 29(1): The Aims of Education, Convention on the Rights of the Child*. Document CRC/GC/2001/1. OHCHR [online]. Available at: [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a\)GeneralCommentNo1TheAimsofEducation\(article29\)\(2001\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a)GeneralCommentNo1TheAimsofEducation(article29)(2001).aspx)

64 Sightsavers (2011). *Policy Paper: Making inclusive education a reality* [online] Available at: <https://bit.ly/3xYfTuQ>

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 July 2021): 184 Parties

The Convention on the Rights of Persons with Disabilities (CRPD) is a UN treaty that promotes and protects the full and equal enjoyment of all human rights and fundamental freedoms by people with disabilities.

Article 24 of the CRPD asserts the rights of people with disabilities to an education without discrimination. States are obliged to provide an inclusive education system, which includes quality and free primary and secondary education to persons with disabilities in their communities, as well as accommodation and support to promote academic and social development. Although the priority of Article 24 is clearly on

inclusion and providing reasonable accommodation of the individual's requirements, some States, such as the UK, have ratified the CRPD with reservations allowing parallel education systems that provide education of some disabled children in special schools.⁶⁵

States are obliged to provide quality and free primary and secondary education to persons with disabilities, as well as accommodation and support to promote academic and social development.

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 July 2021): 182 Parties

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) ensures that State Parties prohibit and eliminate racial discrimination in all its forms, and that everyone is able to enjoy human rights without discrimination related to race, sex, language or religion.

Article 5 (v) guarantees the right to education and training without distinction as to race, colour, or national or ethnic origin. In addition, Article 7 urges State Parties to adopt measures, especially in the fields of teaching and education, to combat prejudices which lead to racial discrimination.

⁶⁵ UNESCO (2016). Education 2030. *Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*. UNESCO [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000245656>

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990, ICRMW)

Adopted by the UN General Assembly: 18 December 1990

Entered into force: 1 July 2003

Status of ratification (as of July 2021): 56 Parties

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) sets out standards for the treatment, welfare and human rights of documented and undocumented migrant workers, as well as the obligations and responsibilities of sending and receiving States. Compared to the other UN human rights instruments,

this Convention achieved a much lower rate of ratification. Most of the ratifying States are in Western and Northern Africa and Latin America, regions where migrants traditionally come from, but, thus far, none of the Western European countries, the United States, Australia or Canada has signed or ratified the Convention.

Article 12 (4), 30, 43, and 45 address rights related to education and ensure that migrant workers and their family members have access to education and enjoy equality of treatment with nationals of the State of employment.



Education 2030: Incheon Declaration and Framework for Action for the Implementation of SDG 4

The Incheon Declaration was adopted in May 2015 at the World Education Forum held in Incheon, South Korea, by over 1,600 participants from 160 countries.⁶⁶ It reaffirms the World Declaration for Education for All from 1990, which established six goals to meet the learning needs of all children, youth and adults by 2015.⁶⁷ The Incheon Declaration highlights the commitment of the education community to SDG 4 and the key role of education as a driver for development.⁶⁸ More specifically, it calls for 12 years of free, publicly funded, equitable quality primary and secondary education, of which at least nine years are compulsory. Besides committing to gender equality, inclusive, equitable and quality education, and lifelong learning opportunities, the Incheon Declaration also calls for ‘developing more inclusive, responsive and resilient education systems to meet the needs of children, youth and adults in areas affected by conflicts, violence, natural disasters and pandemics’. To reach these goals, the Declaration encourages increased funding of education (at least 4-6% of GDP and/or at least 15-20% of total public expenditure), and reaffirms that governments are primarily responsible for the implementation of the agenda.⁶⁹

The Incheon Declaration is associated with the Framework for Action for the Implementation of SDG 4, adopted in November 2015 in Paris. This Framework for Action describes how the commitment made in Incheon can be implemented at national, regional and global levels. In order to mobilise countries to work towards SDG 4 and its targets, the Framework of Action suggests ways for the implementation, coordination, financing and monitoring of Education 2030.⁷⁰ For example, it recommends the development of ‘effective monitoring and accountability mechanisms, adapted to national priorities, in consultation with civil societies’, and

The education community must develop more inclusive, responsive and resilient education systems to meet the needs of children, youth and adults in areas affected by conflicts, violence, natural disasters and pandemics.

66 UNESCO (2016). Education 2030. *Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*. UNESCO [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000245656>

67 UNESCO (n.d.). *World Education Forum, Education for All*. UNESCO [online]. Available at: <https://bit.ly/2WfEuyg>

68 UNESCO (2016). Education 2030. *Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*. UNESCO [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000245656>

69 Ibid.

70 Ibid.

insists that data needs to be freely accessible to all.⁷¹

To address the need for stronger leadership and coordination, the Framework for Action institutes the UNESCO 'Education

2030 Steering Committee', which supports Member States and partners in achieving the education agenda by providing guidance, reviews and recommendations.⁷²

Abidjan Principles

The Abidjan Principles were adopted in Côte d'Ivoire in February 2019 by 55 experts on the right to education, following a three-year process bringing together a range of stakeholders from around the world. The principles offer guidelines on the human rights obligations of States to provide public education and to regulate private involvement in education. Within a year, the Principles were recognised and adopted by numerous international and regional human rights institutions, including the UN Human Rights Council, the African Commission on Human and People's Rights, and the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights. In 2021, a commentary document will be published that sets out the legal reasoning behind each of the Guiding Principles.⁷³

The Abidjan Principles are made up of 97 guiding principles grouped under 10 overarching principles. The 10 overarching principles cover:

- The obligation of States to provide quality public education and to regulate private involvement in education.
- The financing of education.

- The role of public-private partnerships and the role of donors and international actors in the provision of education
- Monitoring accountability in upholding the Principles
- Monitoring the implementation of the Principles themselves

The Abidjan Principles reaffirm existing obligations of States in guaranteeing the right to education as prescribed under human rights law and do not create any new legally binding obligations for States. Therefore, States do not need to adopt the Abidjan Principles to be bound by them. Rather, they provide guidance to States on how to implement the right to education, especially regarding private actors increasingly being involved in education.

⁷¹ Ibid.

⁷² Ibid.

⁷³ The Abidjan Principles (2019). *Celebrating the Achievements from the First Year of the Abidjan Principles*. [online]. Available at: <https://bit.ly/3D3JSW8>

UN Special Rapporteur on the Right to Education's reports

Since April 1998, a United Nations Special Rapporteur on the right to education has held a mandate from the Commission on Human Rights to examine and report on the status of the right to education around the world.⁷⁴

In the fulfilment of this mandate, the Special Rapporteur undertakes country visits; responds to individual complaints concerning violations of the right to education in particular

countries; communicates with governments, civil society and other relevant actors to identify solutions for the implementation of the right to education; and submits annual reports to the Human Rights Council and to the General Assembly. Thematic reports cover issues such as the justiciability of the right to education, the right to education for refugees, and the role of non-formal education, public-private partnerships, etc.⁷⁵



74 United Nations Human Rights Office of the High Commissioner (n.d.). *Annual Reports, Special Rapporteur on the right to Education*. [online]. Available at: <https://bit.ly/2Weyg1e>

75 Ibid.

Regional legal and policy frameworks

African Union

African Charter on Human and Peoples' Rights (1981)

The African Charter on Human and Peoples' Rights (ACHPR) is an international human rights instrument, which was designed for the promotion and protection of human rights and basic freedoms in the African continent. The African Commission on Human and Peoples' Rights, established in 1987, is responsible for the oversight and interpretation of the ACHPR.

Article 17.1 of the ACHPR states that every individual shall have the right to education. Similarly, the African Charter on the Rights and Welfare of the Child (1990) enshrines this right for children, with Article 11 stating that every child shall have the right to an education.

African Youth Charter (2006)

With youth constituting about 40% of the African population, their participation and involvement in education is crucial for the development of the continent. The African Youth Charter (AYC) is a policy framework developed by the African Union (AU) to prescribe responsibilities to the AU Member States for the development of youth.

education of good quality'; and that 'the value of multiple forms of education, including formal, non-formal, informal, distance learning and lifelong learning, to meet the diverse needs of young people shall be embraced'.

Youth constitute about 40% of Africa's population – their participation in education is crucial for the continent's development.

Article 13 of the AYC (Education and Skills Development) states that 'every young person shall have the right to



Association of Southeast Asian Nations

ASEAN Human Rights Declaration (2012)

With the Universal Declaration of Human Rights as a reference point, in 2012 the Association of Southeast Asian Nations (ASEAN) adopted its own primary human rights declaration. This embodies the commitment of all ten ASEAN governments to safeguard human rights and the fundamental freedoms of their 600 million citizens. However, the Declaration has been criticised by ASEAN civil society organisations and prominent international NGOs for falling short of international human rights standards.

Article 31 of the ASEAN Human Rights Declaration (AHRD) states that, 'every person has the right to education,' and 'primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate

means. Technical and vocational education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.'

The AHRD also states that, 'education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.'

European Union

European Convention of Human Rights (1953)

Ratified by all 47 Member States of the Council of Europe, the European Convention of Human Rights obliges its State Parties to guarantee the civil and political rights of those within its jurisdiction. The Convention is complemented by Protocols that expand the rights that are protected or amend the framework of the Convention. Ratified by all Members of the Council of Europe, except Monaco and Switzerland, Protocol 1 contains three different rights, including the right to education.

The first sentence of Article 2 of Protocol 1 states that, 'No person shall be denied the right to education'. The negative wording of this article means that there is no positive obligation for States to create a public education system or to subsidise private schools. These areas are left to their discretion. However, States cannot deny the right to access the educational institutions they have chosen to set up or authorise.

The second sentence guarantees the right of parents to have

their children educated in conformity with their religious and philosophical convictions.

The Convention also sets up an international enforcement mechanism to guarantee observance of the civil and political rights undertaken by the State Parties. The European Court

of Human Rights was established in 1959 in Strasbourg to monitor the respect for the human rights by the State Parties. Over the years, the Court has developed an extensive caselaw on the duties of States to guarantee the right to education and the permissible restrictions to this right.⁷⁶

European Social Charter (1996)

The European Social Charter (ESC) complements the ECHR, setting out fundamental social and economic rights and freedoms, including the right to education from primary to higher levels and the right to vocational training. The overall purpose of the ESC is to guarantee an accessible and effective primary and secondary education and vocational training system, as well as equal access to higher education. Article 7 (the right of children and young persons to protection) specifically states that, 'persons who are still subject to

compulsory education shall not be employed as this would deprive them of the full benefit of education'.

All 47 Council of Europe Member States have signed the ESC, with 43 fully ratifying it. The European Committee of Social Rights monitors compliance with the ESC through two mechanisms: a Collective Complaints Procedure and national reports.

Charter of Fundamental Rights of the European Union (2009)

Following the Lisbon Treaty's entry into force in 2009, the Fundamental Rights Charter obtained the same legal value as European Union treaties.

Article 14 enshrines the right to education, proclaiming that, 'everyone has the right to education and to have access to vocational and continuing training'. It also refers to the principle of free compulsory education. As it is phrased,

this principle only implies that every child should have the possibility of attending an establishment that offers free education, but it does not require all establishments to provide free education. It also leaves space for circumstances in which certain specific types of education require payment, if the government takes actions to provide financial compensation.

⁷⁶ European Court of Human Rights (2019). *Guide on Article 2 of Protocol No. 1 to the European Convention on Human Rights – Right to Education* [online]. Available at: <https://bit.ly/3sxOSgJ>

The Americas

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (1988)

The Protocol of San Salvador is an optional, additional protocol to the American Convention on Human Rights to ensure economic, social and cultural rights. It has been signed by 19 States and ratified by 16 States, including Argentina, Brazil, Colombia and Mexico.⁷⁷

Article 13 protects everyone's right to education, including free primary education and the encouragement of basic

education for individuals who have not received or completed the whole cycle of primary instruction. According to the Protocol of San Salvador education 'should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace'.⁷⁸ Since 2007, a functional Working Group examines the periodic reports of the State Parties on the basis of progress indicators.⁷⁹



77 The Organisation of American States (1988). *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"*. OAS [online]. Available at: <https://www.refworld.org/docid/3ae6b3b90.html>

78 Inter- American Commission on Human Rights (n.d.). *Art 13 (2) Protocol of San Salvador*. [online]. Available at: <https://www.cidh.oas.org/Basicos/English/basic5.Prot.Sn%20Salv.htm>

79 International Justice Resource Centre (2018). *Working Group on the Protocol of San Salvador*. [online]. Available at: <https://bit.ly/3z5Juny>

Examples of relevant national legislation

Finland

The Basic Education Act (1998)

Students in Finland are granted free education from when they start school at age seven, until they complete their studies in university. During their entire education, all pupils are provided free school meals, resources, and materials. Education in Finland is governed by the Basic Education Act (the Act),⁸⁰ which provides for basic education and compulsory schooling. Additionally, the Act provides for pre-primary education, education for immigrants, and voluntary additional basic education. The primary objectives of the Act

are as follows:

- i. Education shall be governed by a unified national core curriculum in accordance with the Act.
- ii. Education shall be provided according to the pupil's age and capabilities, and so as to promote healthy growth and development in the pupil.
- iii. Those providing education shall cooperate with the pupil's parents/carers.

The Basic Education Decree (1998)

Other related legislation includes Finland's Basic Education Decree, which covers teaching and working time, evaluation and assessment, and pupils' legal rights. Additionally, the Teachers' Education Act encompasses vocational teacher education.⁸¹

The results of such a comprehensive legislative programme are considerable. The PISA tests (OECD Programme for International Study Assessment) ranked Finland as one of the world's best performers in maths and science. A large part of this success can be attributed to the teaching legislation in Finland, which has made teaching a prestigious career.

Teachers are highly qualified, as a Master's degree is required for full time employment.

It is worth noting that the emphasis in the Finnish education system appears to be on quality rather than quantity, a clear alignment with the aims and targets of SDG 4. Finnish students get the best results and yet do the least number of hours per week in the Global North. They do not sit mandatory exams until 17-19 years of age.⁸²

80 Basic Education Act (1998). *FIN-1998-L-73915*. Finlex [online]. Available at: <http://www.finlex.fi/en/laki/kaannokset/1998/en19980628.pdf>

81 Basic Education Decree (1998). *Basic Education Decree*. [online]. Available at: <http://ncee.org/wp-content/uploads/2017/01/Fin-non-AV-6-Finland-Basic-Education-Decree.pdf>

82 Lopez, L. (2012). *How Finnish schools shine*. The Guardian [online]. Available at: <http://www.theguardian.com/teacher-network/teacher-blog/2012/apr/09/finish-school-system>

Ecuador

In Ecuador, the right to education is protected by the constitution of 2008. Art. 26 declares it an 'unavoidable and mandatory duty of the State.' Art. 27 adds that education shall be 'participatory, compulsory, democratic, inclusive and diverse.' As a result, the public budget for education has increased, leading to higher numbers accessing primary and secondary education. In addition to guaranteeing the rights of pregnant and breast-feeding women to education (Art. 43), the Constitution also specifically recognises the rights of persons with disabilities to an education that 'develops their potential and skills for their integration and participation in equal conditions' (Art. 47).

In order to provide access to education for students with disabilities, Inclusive Education Support Units have been set up in every district, which provide quality care and service.⁸³ Although the numbers of children with disabilities enrolling in schools almost doubled from 2007 to 2012, experts are still concerned about the ongoing marginalisation and discrimination against children with disabilities.⁸⁴

The New Organic Law on Intercultural Education (31 March 2011), states that education is compulsory at primary and secondary levels. The Code on Childhood and Adolescence (2003) grants free public education at all stages.⁸⁵

New Zealand

The New Zealand Human Rights Act of 1993 states that it is unlawful to refuse to admit a student on the basis of their nationality or citizenship. Furthermore, primary and secondary education is free and compulsory, including for individuals who are unlawfully living in New Zealand.

New Zealand has supported the education of refugees by providing funding, resources and expertise for schools that work with refugees.⁸⁶ To support refugees and asylum seekers in their right to access free education, the Ministry of Education employs a national refugee coordinator and

associated regional coordinators.⁸⁷

The wider Refugee Resettlement Strategy includes education to improve self-sufficiency, social integration, and independence among refugees. Besides a six-week education orientation, refugees receive health check-ups, trauma counselling, and practical information about life in New Zealand. In 5 years, the proportion of refugee school-leavers achieving Level 2 in the National Certificate of Education Achievement increased from 68% to 90.1% in 2016.⁸⁸

83 UNESCO (2019). *The right to education for persons with disabilities*. UNESCO, [online]. Available at: <https://bit.ly/2XAfl5i>

84 UNESCO (n.d.). *Ecuador*. UNESCO [online]. Available at: <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>.

85 Ibid.

86 UNESCO (2019). *Enforcing the right to education of refugees: A policy perspective*. Working Papers on Education Policy. UNESCO, [online]. Available at: <https://bit.ly/3z7zWIB>

87 UNESCO (n.d.). *New Zealand*. UNESCO [online]. Available at: <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

88 UNESCO (2019). *Enforcing the right to education of refugees: A policy perspective*. Working Papers on Education Policy. UNESCO, [online]. Available at: <https://bit.ly/3z7zWIB>

Brazil

The Constitution of Brazil specifically guarantees the political, cultural, educational and linguistic rights of indigenous peoples.⁸⁹ Basic education for children between 4 and 17 years is compulsory and free.⁹⁰

With the *Institutional Introduction to Teaching Scholarship Program*, Brazil awarded 3,800 scholarships to fund training of rural and indigenous teachers.⁹¹ Another Brazilian programme offers scholarships for undergraduate students to improve initial training for teachers in readiness for work in indigenous and rural schools.⁹² Besides preparing teachers for indigenous contexts and supporting indigenous teachers, there have also been efforts to provide multilingual

intercultural education. This has included the consideration of indigenous' linguistic rights, for instance, the production of textbooks and learning material in different indigenous languages.⁹³

With the financial aid of the '*Bolsa Permanência*' programme, social inequalities between graduate students are minimised. The programme provides financial aid to graduate-level students in a situation of socio-economic vulnerability to enable them to remain at university. Indigenous students are guaranteed to receive at least double the financial assistance compared to the amount received by other students.⁹⁴



89 UNESCO (2019). *Indigenous peoples' right to education*. UNESCO, [online] p.9. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000369698>

90 UNESCO (n.d.). *Brazil*. UNESCO [online]. Available at: <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

91 UNESCO (2019). *Indigenous peoples' right to education*. UNESCO, [online] p.9. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000369698>

92 Ibid.

93 Ibid.

94 Ibid.

Insights for the legal profession

a) Examples of relevant cases and legal proceedings

Colombia

Sentencia C-376/10, Claim of unconstitutionality against Article 183 of the General Education Law (Constitutional Court of Colombia)⁹⁵

A coalition of civil society organisations, supported by a team at Cornell Law School, filed a claim before the Constitutional Court challenging Article 183 of the General Education Law (Law No. 115 of 1994), which allowed the government to impose fees for primary education. Almost 70-80% of public institutions were charging fees, which for many individuals constituted a significant proportion of their income.

the Child, which obliges all signatories to make primary education free and compulsory to all.⁹⁶ The decision affirmed the fundamental nature of the right to free primary education, thus securing this right for 12 million children.⁹⁷

Almost 70-80% of public institutions were charging fees, which for many individuals constituted a significant proportion of their income.

The Constitutional Court found that this provision was in violation of the Colombian Constitution and international human rights treaties, especially in light of the fact that Colombia had ratified the Convention on the Rights of



⁹⁵ Corte Constitucional de Colombia (2010). *Education Basica Primaria en Establecimientos Educativos Estatales: Obligatoria y gratuita Sentencia C-376/10 ()*. [online]. Available at: <http://www.corteconstitucional.gov.co/relatoria/2010/c-376-10.htm>

⁹⁶ Child Rights International Network (2016). *Colombia: Free Education Secured for 12 Million Children*. CRIN [online]. Available at: <https://bit.ly/3nyJKXC>

⁹⁷ Right to Education (2015). *Claim of unconstitutionality against article 183 of the General Education Law* [online]. Available at: <https://bit.ly/3Ey8WVb>

Hungary

Segregation of Roma children in Hungarian schools has been an ongoing problem, with many Roma children being placed in schools for children with special educational needs. Despite the introduction of the 2004 Equal Treatment Act, which forbids segregation in the school system, stigmatisation persists.

The Hungarian NGO, Chance for Children Foundation (CFCF), has brought multiple cases of strategic litigation aiming to end segregation and provide equal educational rights to Roma children.

In 2010, a strategic litigation brought by CFCF, with pro bono support from Allen & Overy, saw the Hungarian Supreme Court award damages to five children who were

segregated by the school authorities in Miskolc, Hungary's third-largest city. The five children were awarded 100,000 forints (US\$320) each, which was approximately three times the monthly earnings of many Roma families. The Supreme Court recognised the act of segregation as against the law and noted the potential damage it might have caused to the children's education. This milestone ruling was intended to not only impact these five children and their families, but to also benefit as many as 150,000 Roma students in Hungary.⁹⁸

Hungary is not alone in systemic discrimination of Roma students – this is a widespread problem across Eastern Europe – and, despite some judicial successes, discriminatory practices and attitudes persist.⁹⁹



98 Sahin-Toth, B. and Nicholson, R. (2010). *Roma: Hope in Hungary*. The Guardian [online]. Available at: <https://bit.ly/3bmRR3R>

99 Open Society Justice Initiative (2016). *Strategic Litigation Impacts: Roma School Desegregation*. [online] Available at: <https://bit.ly/3nE81vs>

South Africa

Minister of Basic Education v. Basic Education for All (20793/2014) (2015) ZASCA 198

The voluntary organisation, Basic Education for All (BEA), brought a challenge against the Department of Basic Education (DBE) and the Limpopo Department of Education (LDOE) over their failure to ensure school pupils in Limpopo had access to textbooks. The case was brought by BEA, along with 22 members of school governing bodies and the South African Human Rights Commission.

The Court ruled that the DBE and LDOE had violated the rights to education, dignity and equality under the Constitution.¹⁰⁰ BEA's litigation combined with its persistent media campaign meant that, at the end of 2012, almost all students in Limpopo had received their textbooks. The situation continued to improve in 2013 and 2014, with systems supporting more efficient textbook delivery.¹⁰¹

Tripartite steering committee and Another v. Minister of basic education and Others (1830/2015) (2015) ZAECGHC 67

The Department of Education had rejected a number of applications for school transport, despite a policy adopted by the South African government in 2003, which stated that school transport was to be provided by the provincial government. In June 2015, the Legal Resources Centre sought a court order on behalf of the schools whose applications had been rejected.

The High Court held that the right to 'basic education' also includes the means necessary for pupils to access that education. If access to schools is 'hindered by distance and an inability to afford the costs of transport, the State is obliged to provide transport' in order to fulfil the constitutional right to basic education. The basic right to education was deemed

to be 'meaningless' unless learners had access to transport to and from school. As a result of this decision, the South African government provided transport to all 172 students.¹⁰²

If access to schools is hindered by distance and an inability to afford the costs of transport, the State is obliged to provide transport in order to fulfil the constitutional right to basic education.

100 The Supreme Court of Appeal of South Africa (2014). *Minister of Basic Education v Basic Education For All [2015] 20793/2014 [2015] ZASCA 198*. The Supreme Court of Appeal of South Africa [online]. Available at: <http://www.saflii.org/za/cases/ZASCA/2015/198media.pdf>

101 Politicsweb (2016). *Limpopo DOE failing to provide learners with basics*. Equal Education. [online]. Available at: <https://bit.ly/3msBEAB>

102 Right to Education (2017). *Tripartite steering committee and Another v Minister of basic education and Others (High Court; 2015)*. Case Summary. [online]. Available at: https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_Tripartite_steering_committee_and_others_v_Minister_

India

The right to free and compulsory education was recognised in India's Constitution in 2002, following decisions by the Supreme Court (*Mohini Jain v. Union of India* [1992] and *Unni*

Krishnan, J.P. v. State of Andhra Pradesh [1993]), which ruled that the right to education was an integral part of the right to life.

***Environmental & Consumer Protection Foundation v. Delhi Administration & Others* (2012) INSC 584**

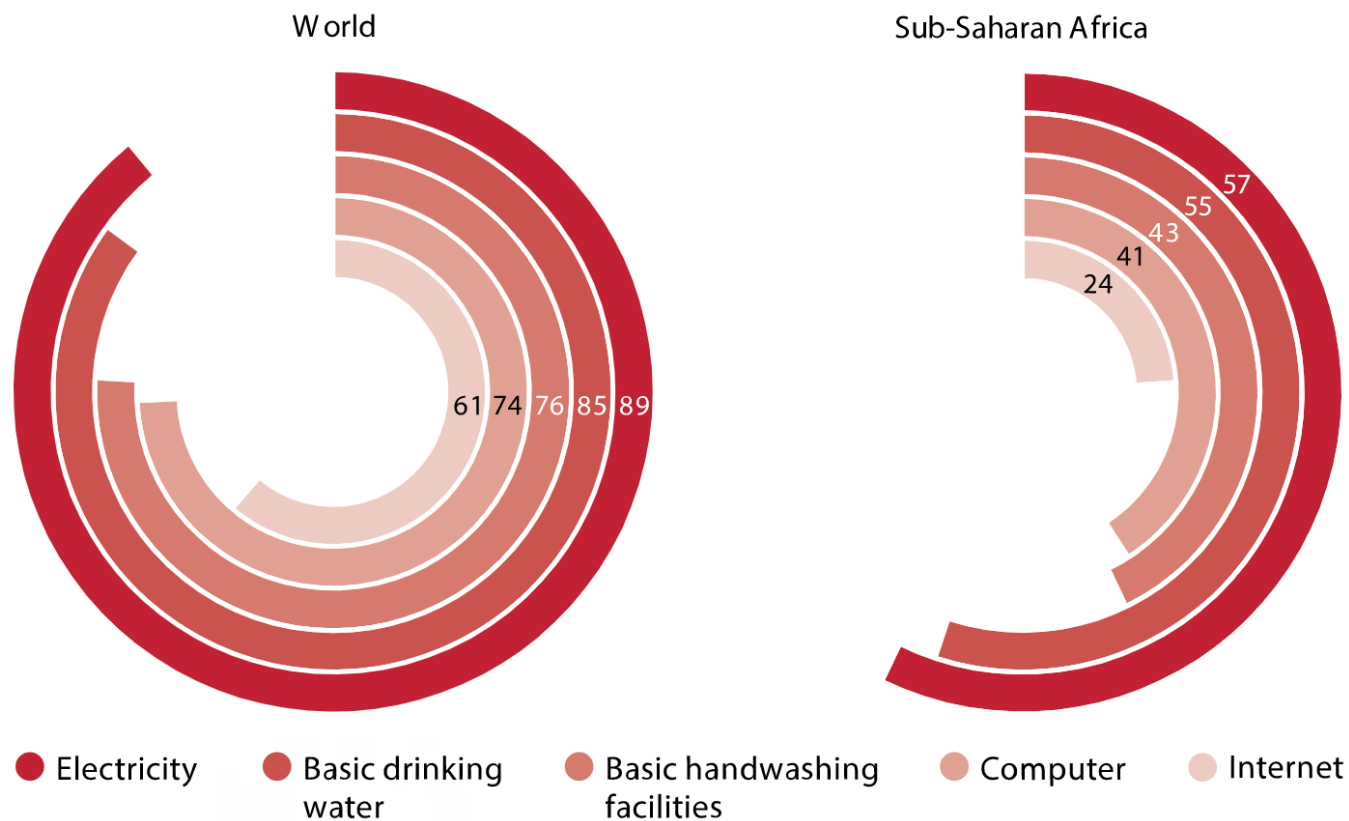
The lack of adequate sanitation and infrastructure in schools throughout India is suspected to be a key factor for low enrolment rates and the high number of dropouts, especially for girls. An Indian charity filed this case in 2004, based on Article 21A of the Indian Constitution, which provides free and compulsory education to all 6 to 14-year-olds. They argued that the right to education was not implemented and the poor facilities impeded children's access to education.

The Supreme Court held 'that the right to education cannot be enjoyed unless basic infrastructure is provided'. Hence, the Court decided that all schools needed to have toilet facilities, drinking water, sufficient classrooms and adequate teaching staff. By ensuring adequate infrastructure in schools, the decision confirmed that education must be conducted in a 'safe and clean learning environment'.¹⁰³



103 Right to Education (2015). *Environmental & Consumer Protection Foundation v Delhi Administration & Others* (Supreme Court of India; 2012). Case Summary. [online]. Available at: <https://bit.ly/3mppl80>

Proportion of upper secondary schools with access to basic school resources



Source: United Nations, Department of Economic and Social Affairs, Statistics Division (2020). SDG 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all [online]. Available at: <https://unstats.un.org/sdgs/report/2020/goal-04/>

Uganda

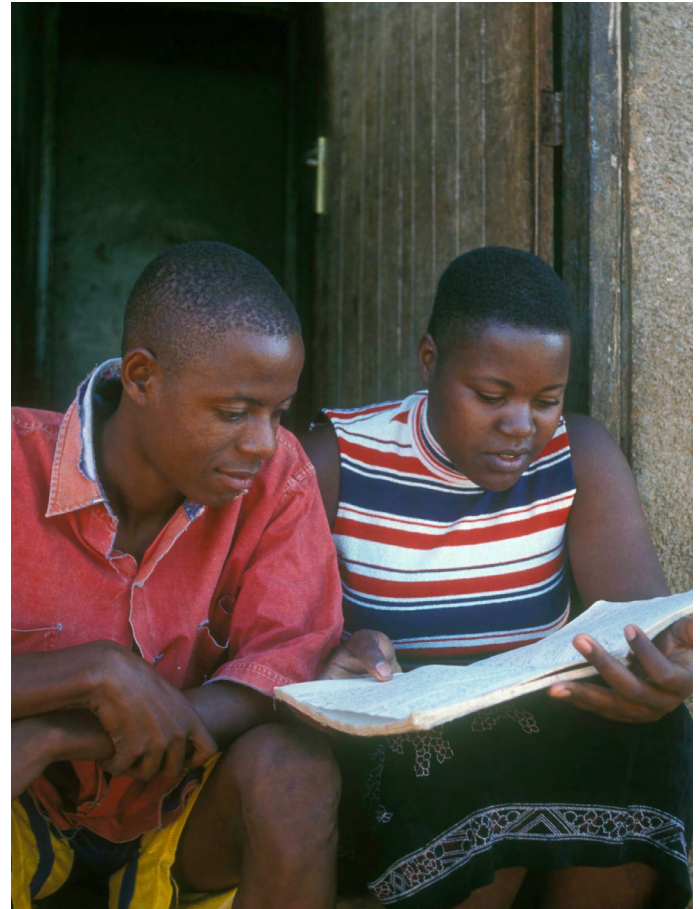
In 2007, the government of Uganda introduced the Universal Secondary Education (USE) programme. Seven years later, 943 government grant aided schools and 852 public-private partnership schools (PPPs) implemented the USE programme.

A Ugandan NGO, Initiative for Social and Economic Rights (ISER) found that the government paid less money for children attending PPP schools than for children enrolled in government aided school, which resulted in the violation of the right to education for children in PPP schools. Besides limited financing, the ISER discovered that many teachers in PPP schools were unqualified and that high non-tuition fees limited access to education for disadvantaged children, especially girls, children with disabilities and children from low-income families.

Based on this research, the ISER filed a case in the High Court of Uganda in 2016 against the government policy on financing for USE.¹⁰⁴ The ISER argued that the education provided by PPP schools infringed children's right to quality education, as well as equality and freedom from discrimination guaranteed under the constitution. The High Court of Uganda concluded that the government has a responsibility to ensure 'equity for all children' by regulating the education provided by private institutions. The High Court ordered the government to 'seek guidance from the Abidjan Principles' and to 'take all effective measures to restore universal access to free, quality, public education'.¹⁰⁵

Besides reassuring the primary responsibility of States to provide education and the need to effectively regulate private involvement in the provision of education, the

judgment is important because it is the first time that a court has referred to the Abidjan Principles.



104 Initiative for Social and Economic Rights (2016). *Initiative for Social and Economic Rights (ISER) v. Attorney General, Civil Suit No. 353 of 2016*. [online]. Available at: https://iser-uganda.org/images/downloads/Case_Summary_of_the_PPPs_in_Education_case.pdf

105 Ibid.

b) Legal context and challenges

The above-mentioned elements of international legal frameworks prove that the right to education is a legally binding obligation for States. International and regional treaties recognising the right to education ensure that States are legally bound to fulfil the right to education. In addition to this legal obligation, there is also a political obligation for States, through SDG 4, to provide inclusive and equitable quality education for all. With the adoption of the 2030

Agenda in 2015, the international community has committed to achieve SDG 4 as an integral part of achieving sustainable development.¹⁰⁶

Even though States have politically committed to education as an integral part of achieving sustainable development through the SDGs, there are still many challenges to guarantee quality education for all.

Impact of the COVID-19 Pandemic

The COVID-19 pandemic has had a huge impact on education systems. On average schools were closed for 40% of a school year and significantly more in low- and lower-middle-income countries.¹⁰⁷ This has led to significant learning losses, the full impact of which is not yet fully known. As of 2021, the majority of countries are yet to put substantive policies in place to remediate these losses.

Most low-income countries were unable to facilitate remote learning for students due to a lack of technological resources, as well as teacher's capacities and support.¹⁰⁸ This has highlighted the need for relevant policies and funding to protect education systems against the ongoing and future crises. Furthermore, additional support is also required to

assist schools to safely reopen and mitigate risks of COVID-19 for students and staff. Additionally, it is anticipated that many of the most vulnerable would not return to schools once they reopen, requiring the implementation of remedial actions to mitigate this risk.¹⁰⁹

Trends in education financing have so far demonstrated that many governments across the world have responded to the pandemic by allocating additional funding to education. UNESCO has urged governments to ensure that increased and equitable funding is maintained in the long term to recover from the learning loss.¹¹⁰

106 Right to Education (2018). *Education 2030*. [online]. Available at: <https://www.right-to-education.org/issue-page/education-2030>

107 UNESCO (2021). *What's Next? Lessons on Education Recovery: Findings from a Survey of Ministries of Education amid the Covid-19 Pandemic*. [online]. Available at: http://covid19.uis.unesco.org/wp-content/uploads/sites/11/2021/07/National-Education-Responses-to-COVID-19-Report2_v3.pdf

108 Ibid

109 Ibid

110 Ibid

Marginalised groups

Marginalised groups are often left behind by national educational policies, denying many people their right to education:

- Despite legal instruments promoting equality between women and men across the world, gender discrimination still impacts on access to inclusive and quality education. Some countries require wives to obtain their husbands' permission in order to get a job, hindering access to education and vocational training. Child marriages can keep girls out of school temporarily or indefinitely, and the lack of adequate sanitary facilities prevents girls from attending school during menstruation. Gender stereotyping, including imposing domestic responsibilities such as cleaning or water fetching on women and girls, can have a negative impact on their school performance.¹¹¹ Until women's rights are addressed more generally, discrimination on the grounds of gender will remain an obstacle to universal education.
- Although many States have enacted legislation to ensure equal access to education for persons with disabilities, societal attitudes, lack of understanding and lack of awareness mean that discrimination may still persist. Barriers for children with disabilities include, for example, unsuitable learning materials and physically inaccessible school buildings, as well as exclusion and segregation from mainstream school settings.¹¹² Even when children

Gender stereotyping, including imposing domestic responsibilities on women and girls, can have a negative impact on their school performance.

with disabilities attend school, they are less likely to complete it or transition to secondary school.¹¹³ A recent Human Rights Watch Report about inclusive education in Iran, found that only 150,000 out of an estimated 1.5 million children of school age with disabilities were enrolled in the school year 2018-2019.¹¹⁴ A mandatory government medical test determines whether children are 'educable' and forces children with an IQ between 50 and 70 to attend a segregated 'special' school, while denying education to children with an IQ below 50.¹¹⁵

- The numbers of refugees and internally displaced people across the world has increased. As of mid-2019, over 70 million people were estimated to be displaced from their homes due to conflicts, violence or human rights violations.¹¹⁶ In 2017, only 50 percent of refugee children were enrolled in primary school and less than 25% were enrolled in secondary education.¹¹⁷ Whilst the protection of internally displaced people is encompassed within international human rights law and humanitarian law,

111 Right to Education Initiative (2018). *Women and girls*. [online]. Available at: <https://www.right-to-education.org/girlswomen>

112 Right to Education (2018). *Persons with disabilities*. [online]. Available at: <https://www.right-to-education.org/issue-page/marginalised-groups/persons-disabilities>

113 Global Campaign for Education (2014). *Equal Right, Equal Opportunity, Inclusive Education For Children With Disabilities*. [online]. Available at: <https://bit.ly/313Dnnu>

114 Human Rights Watch (2019). *'Just Like Other Kids', Lack of Access to Inclusive Quality Education for Children with Disabilities in Iran*. [online]. Available at: <https://bit.ly/2ZALaci>

115 Ibid.

116 UNHCR (2019). *Figures at a Glance*. Statistical Yearbook. [online]. Available at: <https://www.unhcr.org/figures-at-a-glance.html>

117 Right to Education Initiative (2018). *The status of the right to education of migrants: International legal framework, remaining barriers at national level and good examples of states' implementation*. [online]. Available at: <https://bit.ly/3ERLsd>

in particular the UN Guiding Principles on Internal Displacement (1998), access to quality education is not guaranteed or indeed considered a priority. In many countries, it is left to charities to provide resources for education, such as books, structural facilities and transport.

- Although indigenous people represent only about 5% of the world's population, they constitute around 15% of

the world's poor.¹¹⁸ According to Minority Rights Group International, minority and indigenous children make up the majority of children who are out of school globally.¹¹⁹ They are also commonly deprived of access to quality education that is relevant and responsive to their specific context and needs. This includes a lack of access to teaching material and mother-tongue based education, as well as poor infrastructures to travel to school in rural areas.¹²⁰

For-profit schools

The increasing privatisation of education across the world, particularly the development of for-profit private schools in low and middle-income countries, is a major challenge to the

implementation of SDG 4. Research shows that such for-profit systems increase segregation and disparities, and undermine access to quality free education.¹²¹

Financing education

In order to achieve SDG 4, States must have financial resources, either through national systems or international aid, to implement the right to education. The Framework for Action, published after the Incheon World Education Forum in 2015, recommends that 4-6% of GDP should be allocated to education.¹²² This would include spending on building

schools, funding and training teachers, providing learning materials, and implementing fair and quality education. In some cases, factors such as corruption in government and tax evasion act as barriers to the achievement of SDG 4 as they restrict vital financial resources.

118 UNESCO (2019). *Indigenous peoples' right to education*. UNESCO, [online] Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000369698>

119 Minorities Rights Group International (2009). *State of the World's Minorities and Indigenous Peoples*. [online]. Available at: <https://bit.ly/3Cr1xX3>

120 UNESCO (2019). *Indigenous peoples' right to education*. UNESCO, [online] Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000369698>

121 Right to Education Initiative (n.d.). *Privatisation of Education*. [online]. Available at: <http://www.right-to-education.org/issue-page/privatisation-education>

122 UNESCO (2016). *Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*. UNESCO [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000245656>

Quality Education

The right to education is not only the right to access education, but also the right to receive an education of good quality. The aims of education go far beyond acquiring numeracy and literacy skills and should include 'life skills such as the ability to make well-balanced decisions, critical thinking, creative talents, and other abilities, which give children the tools needed to pursue their options in life.'¹²³

Although the right to education is enshrined in numerous international agreements and is recognised in Constitutions across the world, obstacles remain in considering the right to education as the subject of litigation. It is not enough to have the right to education effectively implemented at the national level, there is also a need for enforcement mechanisms that ensure access to legal recourse.¹²⁴ The justiciability of economic, social and cultural rights, as opposed to civil and political rights, has been controversial. However, today, it is generally accepted that all human rights are indivisible, interdependent, and interrelated.¹²⁵ The entry into force in 2013 of the Optional Protocol to the ICESCR, establishing complaint and inquiry mechanisms, represents a significant step towards international accountability, even though, to this date, only 23 States have ratified it.¹²⁶

In particular, the right to education has been subject to litigation across many jurisdictions at national, regional and

international levels. This has led the UN Special Rapporteur on the right to education to affirm that 'the general question of whether economic, social and cultural rights are justiciable does not apply to the right to education.'¹²⁷ Nevertheless, even when the right to education is considered justiciable, there remain barriers to accessing justice, which include:¹²⁸

- Awareness – across the world, few people are fully conscious of the entitlements they are granted under the right to education and this is especially true for disadvantaged groups. When States have not included the right to education in national legislation, local lawyers may be unaware of regional and international legal options and obligations under such treaties.
- Cultural barriers - people, particularly from vulnerable groups, may be unwilling to take violations of their rights to (quasi)-judicial mechanisms for various reasons, including limited language skills, fear of reprisals, or cultural constraints.
- Litigation costs – legal fees may have a deterrent effect, especially for disadvantaged groups.

123 United Nations (2001). *Convention on the Rights of the Child, General Comment No. 1, Article 29(1): The Aims of Education*. Document CRC/GC/2001/1. OHCHR [online]. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2F2001%2F1&Lang=en

124 Right to Education Initiative(n.d.). *Justiciability*. [online]. Available at: <https://www.right-to-education.org/issue-page/justiciability>

125 United Nations Human Rights Office of the High Commissioner (1993). *Vienna Declaration and Programme of Action*. Adopted by the World Conference on Human Rights in Vienna on 25 June 1993. United Nations [online] Available at: <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

126 UN General Assembly (2008). *Optional Protocol to the ICESCR*, Document A/RES/63/117. United Nations online]. Available at: <https://bit.ly/3moaZ7H>

127 Tomasevski, Katarina (2000). *Progress report of the Special Rapporteur on the right to education*. Economic and Social Council, United Nations. Document E/CN.4/2000/6. [online]. Available at: <https://www.refworld.org/docid/3b00f4290.html>

128 Singh, Kishore (2013) *Report of the Special Rapporteur on the justiciability of the right to education*. United Nations. Document A/HRC/23/35. [online]. Available at: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Justiciability_Right_to_Education_2012.pdf

c) So, what can lawyers do?

This section highlights several avenues through which the legal community can build its understanding of the SDGs in general, and of SDG 4. It focuses on how lawyers can use this knowledge to improve their practice and share their learning with colleagues and clients (learn and educate). This section also examines ways that law firms and lawyers can integrate SDG 4 within their organisations, both in their internal operations and in their daily work (integrate). Finally, it recognises the broader opportunities for law firms to engage with SDG 4 through pro bono work, positive advocacy and community involvement (act).

The ideas put forward here are intended to kickstart a

conversation about the role of the legal community in the realisation of the SDGs. A4ID's SDG Legal Initiative will continue to push this global conversation forward and create pathways of opportunity for lawyers, the development community, and academics.

Lawyers in all sectors of the legal profession – corporate counsel, private practice, government advisors, parliamentarians, international agencies, civil society, academia – are well-positioned to help implement the UN Sustainable Development Agenda and contribute to SDG 4 to achieve quality education for all.

Learn and educate

Lawyers can enhance their understanding of the right to education, along with the policy and programmatic efforts to promote it, at local, national, regional and international levels. Substantial research and analysis is available, including resources with a special focus on SDG 4. Important sources of information include international development agencies, particularly UNESCO. Lawyers and legal experts providing pro bono support to State authorities in the field of education will find useful insights in the Law and Policy Review Guidelines produced by UNESCO.¹²⁹ Additionally, the Right to Education Initiative (RTE), a global human rights organisation focusing on the right to education, provides legal analysis, tools and

guides to help understand and effectively use human rights mechanisms to claim and enforce the right to education.¹³⁰ Moreover, the reports of the UN Special Rapporteur on the right to education will be of particular interest to lawyers.¹³¹

Law firms and individual lawyers can get involved in activities to raise awareness on the right to education in the legal community, such as publishing research papers and organising events (including legal clinics, seminars, panel presentations and international roundtables) on relevant legal topics.

¹²⁹ UNESCO (2014). *The Right to Education, Law and Policy Review Guidelines*. [online]. Available at: <http://unesdoc.unesco.org/images/0022/002284/228491e.pdf>

¹³⁰ Right to Education Initiative (n.d.). *Right to Education*. [online]. Available at: <http://www.right-to-education.org>

¹³¹ United Nations Human Rights Office of the High Commissioner (n.d.). *Annual Reports*. United Nations [online]. Available at: <https://bit.ly/317KgnP>

At the firm level, the managing and senior partners responsible for strategic decisions should review and familiarise themselves with the SDG 4 targets. Firms should identify the direct opportunities to positively contribute

to achieving SDG 4, as well as the potentially negative or unintended impacts that the organisation could have on the targets and ways to mitigate these risks.

Integrate

Law firms and lawyers are expected to act in a way that encourages equality, diversity and inclusion.¹³² Beyond the minimum legal requirements to remove potential discrimination, a proactive, inclusive approach to employment and people development adds value to an organisation. It is also increasingly recognised as a commercial asset. Recruiting a diverse workforce – including people who may face disadvantage because of their socio-economic background – maximises the chances of getting the best people for each role.

Law firms can join schemes that promote social mobility. PRIME is an alliance of UK law firms committed to improving access to the legal profession, through offering work experience to young people from less privileged backgrounds, who might otherwise not have the opportunity to access careers in law. Pathways to Law is another organisation which supports academically-able students from non-privileged backgrounds in their final years of secondary school, who are interested in a career in law.

Law firms should adopt a lifelong learning approach to training their employees on technical and soft professional skills. Target 4.7 seeks to ensure that all learners acquire the knowledge and skills needed to promote sustainable

development, including on sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development. These topics – and the specific role of the law and lawyers in achieving sustainable development – should be incorporated into internal training programmes.



¹³² Solicitors Regulation Authority(2019). *Guidance on the SRA's approach to equality, diversity, and inclusion*. [online]. Available at: <https://bit.ly/3CqYxtF>

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 context and the national legal environment. Such partnerships will not only help to broaden the impact of the firm's pro bono work, but

measure and demonstrate their positive impact towards globally recognised goals. There is wide recognition that pro bono work, which is focused on progressing long-term goals and implemented in partnership with relevant organisations will lead to more sustainable results than ad hoc pro bono assistance.

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

Awareness raising

Education is recognised as a human right in numerous international and regional treaties. The Legal sector has an important role in promoting a human rights-based approach to education, holding States accountable for their obligation

to respect, protect and fulfil the right to education. Lawyers can disseminate knowledge on the right to education to students, parents, teachers and school administrators.

Supporting change towards quality education for all domestically

The legal sector can contribute to the development of an education system where no child's educational success is limited by their socio-economic background. In the UK, for instance, law firms could join organisations such as the Fair Education Alliance (FEA), set up in partnership with Teach First, to combine expertise across sectors in tackling social

mobility and the educational achievement gap. Law firms, such as Clifford Chance, have worked to support struggling schools to improve their standards and offerings, as well as organisations that help refugees with English and skills training.¹³³

¹³³ Clifford Chance (n.d.). *Access to Education*. [online]. Available at: <https://bit.ly/2XWILrn>

Public legal education

SDG 4 seeks to promote education throughout the course of life. Strengthening legal literacy in the general population, with a special attention to vulnerable groups, is part of that effort and also contributes to improving access to justice (SDG 16). Firms and lawyers can engage in public legal education (PLE) to increase the general public's ability to understand legal issues. PLE helps the public to increase

awareness of their rights, make better decisions involving everyday legal issues, and understand how to get legal support and access to justice. Concretely, PLE activities include trainings and workshops on legal issues, with a special focus on disadvantaged groups such as people in poverty, prisoners, and asylum seekers.

Supporting those who work to realise the right to education globally

Law firms can provide pro bono advice to international organisations and NGOs to support their projects and initiatives to realise the right to education for all around the world. For many years, A4ID has led the way in facilitating such engagement. Working in partnership when delivering pro bono legal support is crucial to ensure that the intervention is adapted to the local context and responsive to actual community needs, making them more effective.

Pro Bono legal expertise is particularly valuable when international organisations and NGOs are directly engaged or support the following activities:

- **Drafting legislation:** Law firms could help with drafting legislation which facilitates SDG 4, for example, the introduction of laws that make primary education compulsory and available for free for all.
- **Legal research:** For instance, A4ID's Legal Partners Allen & Overy, DLA Piper, Onyango and Company Advocates,

Orrick, and White & Case recently assisted RTE with analysing the national laws, policies and guidelines regarding the right to education of migrant groups in 14 jurisdictions. Their findings contributed to a UNESCO publication focused on enforcing the right to education of refugees.¹³⁴

- **Seeking remedies when there are violations of the right to education:** Success stories, such as Allen & Overy LLP's pro bono support to the Hungarian NGO Chance for Children Foundation, have shown that civil society could play an important role in litigating cases. Law firms could assist NGOs in investigating, preparing reports and litigating cases where the right to education of individuals or communities have been violated.

Working collaboratively, A4ID has produced resources to guide law firms seeking to align their pro bono practice to the SDGs.¹³⁵

¹³⁴ UNESCO (2019). *Enforcing the right to education of refugees: a policy perspective*. [online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000366839>

¹³⁵ A4ID (2018). *Pro bono and the Sustainable Development Goals: A guide for international law firms working with NGOs*. [online]. Available at: <https://bit.ly/3vXOp9l>



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