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The right to work in the age of artificial intelligence: Examining the right to development under the African Charter as a framework for protecting workers from job displacement

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Abstract: *Today, no sector has been left untouched by the influence of artificial intelligence (AI), and the workplace is no exception. The rapid integration of AI into the workplace is transforming the nature of work, while raising significant concerns about job displacement, workers' livelihoods and the protection of the right to work. Last year, developed states experienced an AI wave of job displacement that led to millions of job losses. Although AI has the potential to enhance productivity and create new employment opportunities, its capacity*

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to replace human workers through automation poses significant challenges to the realisation of the right to work. This chapter examines whether the right to development, as recognised under the African Charter on Human and Peoples' Rights, can provide a normative framework for addressing AI-driven job displacement. It argues that the right to development, understood as encompassing participation, equality, economic opportunity and the equitable distribution of development benefits, can complement the right to work by requiring states to adopt inclusive, human-centred approaches to technological transformation. The chapter further considers the obligations of African states to ensure that technological advancement does not disproportionately undermine workers' rights and access to decent employment. It proposes that the right to development can serve as a framework for guiding policies on reskilling, social protection, worker participation and equitable access to AI benefits. Ultimately, the article argues that an African human rights approach to AI should seek not to resist technological development but to ensure that such development is inclusive, participatory and consistent with workers' dignity and economic rights.

Résumé : *Aujourd'hui, aucun secteur n'échappe à l'influence de l'intelligence artificielle (IA), et le monde du travail ne fait pas exception. L'intégration rapide de l'IA dans le monde du travail transforme la nature du travail, tout en soulevant d'importantes préoccupations concernant la suppression d'emplois, les moyens de subsistance des travailleurs et la protection du droit au travail. L'année dernière, les pays développés ont connu une vague de suppressions d'emplois liée à l'IA qui a entraîné la perte de millions d'emplois. Ainsi, bien que l'IA ait le potentiel d'améliorer la productivité et de créer de nouvelles opportunités d'emploi, sa capacité à remplacer les travailleurs humains par l'automatisation pose des défis majeurs à la réalisation du droit au travail. Ce chapitre examine si le droit au développement, tel que reconnu par la Charte africaine des droits de l'homme et des peuples, peut fournir un cadre normatif pour faire face aux suppressions d'emplois induites par l'IA. Il soutient que le droit au développement, compris comme englobant la participation, l'égalité, les opportunités économiques et la répartition équitable des bénéfices du développement, peut compléter le droit au travail en exigeant des États qu'ils adoptent des approches inclusives et centrées sur*

l'humain face à la transformation technologique. L'article examine en outre les obligations des États africains de veiller à ce que le progrès technologique ne porte pas atteinte de manière disproportionnée aux droits des travailleurs et à leur accès à un emploi décent. Il propose que le droit au développement serve de cadre pour orienter les politiques en matière de reconversion professionnelle, de protection sociale, de participation des travailleurs et d'accès équitable aux avantages de l'IA. En fin de compte, l'article soutient qu'une approche africaine de l'IA fondée sur les droits de l'homme ne devrait pas chercher à s'opposer au développement technologique, mais à garantir que ce développement soit inclusif, participatif et compatible avec la dignité et les droits économiques des travailleurs.

Key words: *artificial intelligence; job displacement; development; participation; transparency*

1 Introduction

Artificial intelligence (AI) is a diverse technology that is increasingly present in almost every aspect of our daily lives.[1] It plays a key role in creating and implementing global solutions to address the challenges of the twenty-first century.[2] AI not only has the potential to profoundly change the global economy, but also offers new opportunities for sustainability and governance;[3] so much so that its potential impact is being touted as akin to a new industrial revolution. AI[4] marks one of

1 MA Trabelsi 'The impact of artificial intelligence on economic development' (2024) 3 *Journal of Electronic Business & Digital Economics* 142; C Gavaghan, A Knott & J Maclaurin *The impact of artificial intelligence on jobs and work in New Zealand* (2021) 2.

2 United Nations Conference on Trade and Development Technology and Innovation Report 2025: Inclusive Artificial Intelligence for Development (2025) 5, https://unctad.org/system/files/official-document/tir2025_en.pdf 5 (accessed 30 September 2026).

3 United Nations Technology and Innovation Report (n 2); M Cazzaniga and others 'Gen-AI: Artificial intelligence and the future of work' (2024) IMF Staff Discussion Note SDN/2024/001 (International Monetary Fund) 2; as Africa embraces AI, its adoption needs to be aligned with SDG 8 and the African Union's Agenda 2063 commitments, African Union Commission Agenda 2063: The Africa We Want (2015); United Nations Transforming our World: The 2030 Agenda for Sustainable Development (2015) Goal 8; African Union Commission Agenda 2063: The Africa We Want (2015).

4 Cazzaniga and others (n 3).

the most significant changes in modern society, profoundly altering economic systems, labour dynamics and governance structures globally.[5] It presents significant opportunities to deal with complex challenges, improve predictions, enhance decision making and drive economic growth.[6] AI is also useful for sustainable development, as its analytical capabilities provide leaders with avenues to manage limited resources more effectively.[7] Furthermore, generative AI tools can provide people with access to expert knowledge they might not otherwise have, especially in areas such as farming and education.[8] Nonetheless, it is important to note that with each industrial revolution, as with AI, there has been mass disruption in exchange for advancement.[9]

There is no universally accepted definition of AI. Still, it is generally considered the 'capability of a machine to engage in cognitive activities similar to those of the human brain, such as reasoning, learning, and problem-solving'.[10] In basic terms, AI involves machines with human-like reasoning that require large datasets to be most effective.[11] AI systems can analyse vast amounts of data, identify patterns, and make predictions with unprecedented speed and accuracy.[12] AI encompasses a wide range of technologies, including generative AI (Gen AI), which creates new content; specialised AI, which performs specific tasks such as pattern recognition; and automation, which streamlines repetitive tasks to improve efficiency.[13] Automation, which is the focus of this chapter, is defined as the reliance on AI-enabled technology for the production of goods and the delivery of services instead of relying on human labour.[14] It

5 MM Tampubolon 'Artificial intelligence and human rights: Challenges to the right to work' in M Khosrow-Pour (ed) *Encyclopedia of modern artificial intelligence* (2027) 4731.
6 Cazzaniga and others (n 4) 3.
7 UNCTAD (n 2) 5.
8 UNCTAD (n 2) 47.
9 Y Shen & X Zhang 'The impact of artificial intelligence on employment: The role of virtual agglomeration' Humanities and Social Sciences Communications 1.
10 UNCTAD (n 2) 12.
11 Cazzaniga and others (n 4) 3.
12 AK Johar 'Right to work and artificial intelligence' (2024) 11 *Journal of Emerging Technologies and Innovative Research* 321.
13 Cazzaniga and others (n 4) 2 & 3.
14 ZF Arat & D Waring 'Rethinking work, the right to work, and automation' (2022) 21 *Journal of Human Rights* 59.

promises higher efficiency, lower costs and enhanced economic problem-solving capabilities.[15]

An area significantly affected by AI-enabled automation is the workplace.[16] It continues to transform tasks, labour dynamics, working conditions and hiring practices, affecting job availability and employment security.[17] The automation of both routine and increasingly complex tasks has sparked concerns amongst low- and middle-skilled workers that entire job categories could vanish, affecting both manual and professional roles.[18] This raises concerns about possible violations of the right to work.[19] The issue at hand, therefore, is whether the right to work can afford any protection to workers before they are replaced, or even to those who are, and how it can be balanced against the benefits of technological progress.[20] This underscores the urgent need to explore the contemporary relevance of the right to work in the age of AI.[21]

While exploring the relevance of the right to work, this chapter argues that the right, as it is framed in international, regional and national legal frameworks, functions primarily as a claim to access to work and protection against its arbitrary loss. Nonetheless, it does not clearly place a duty on the state or provide a remedy when large-scale job displacement results from the deployment of technology in the workplace. The right to work is framed as an individual right in most legal instruments,[22] which may be limiting, as AI-driven displacement

15 McKinsey Global Institute *A new future of work: The race to deploy AI and raise skills in Europe and beyond* (2024) 7, https://www.mckinsey.de/~/media/mckinsey/locations/europe%20and%20middle%20east/deutschland/news/presse/2024/2024%20-%2005%20-%2023%20mgi%20genai%20future%20of%20work/mgi%20report_a-new-future-of-work-the-race-to-deploy-ai.pdf (accessed 30 September 2026); Johar (n 12) 320 & 321; A Braganza and others 'Productive employment and decent work: The impact of AI adoption on psychological contracts, job engagement and employee trust' (2021) *Journal of Business Research* 485; M Kwan 'Automation and the international human right to work' (2021) *Emory Law Scholarly Commons Emory International Law Review Recent Developments Journals* 39.

16 McKinsey Global Institute (n 15); Johar (n 12) 320 & 321.

17 Tampubolon (n 5) 4732.

18 Tampubolon (n 5); Arat & Waring (n 14) 59 & 60.

19 Kwan (n 15) 38.

20 Kwan (n 15) 37 & 40.

21 Kwan (n 15) 37.

22 Although the Committee on Economic, Social and Cultural Rights has interpreted the right to work as also collective (General Comment 18, para 6); and labour rights and labour regulation may provide some recourse as collective in nature. However, they may be limited as they protect workers only within the employment

is structural, affecting groups of workers rather than only individuals. This chapter argues that adopting the right to development in article 22 of the African Charter on Human and Peoples' Rights (African Charter) as its normative framework could address the right to work's limited capacity to protect against job displacement. Furthermore, the right to development, understood as encompassing equitability, non-discrimination, participation, accountability and transparency, with equity and choice as important, overarching themes,[23] can complement the right to work by requiring states to adopt inclusive, human-centred approaches to AI innovation and deployment, extending beyond the workplace. Through doctrinal and conceptual analysis, the chapter asks whether work can be recognised as a collective right within this normative framework and whether that right can be expanded to protect from AI-driven job displacement. Importantly, the chapter proposes applying the framework in this way, while recognising that it remains largely untested in African human rights jurisprudence.

2 Impact of artificial intelligence on the right to work

AI is reshaping the world of work.[24] It is changing how work is done and altering job structures, competency recognition and workplace conditions.[25] However, its full impact on work is hard to predict. What[26]

relationship. See DS Valerio '"Negotiating the algorithm": Automation, artificial intelligence and labour protection' (2018) 41 *Comparative Labor Law & Policy Journal* 1-32; S Clarke 'Individual and collective regulation of labour relations' (paper presented at the Beijing Labour Law Conference, February 2004) 1-11.

23 *Centre for Minority Rights Development & Others v Kenya* (2009) AHRLR 75 (ACHPR 2009) (*Endorois*) para 277.

24 W Jin and others 'A review of AI-driven automation technologies: Latest taxonomies, existing challenges, and future prospects' (2025) 84 *Computers, Materials & Continua* 3961; LD Tyson & J Zysman 'Automation, AI and work' (2022) 151 *Daedalus* 256; HP Trujillo and others 'The global impact of AI on workplace safety, opportunities and challenges for the future of work' (2025) 9 *Ciencia Latina Revista Científica Multidisciplinar* 7502.

25 European Trade Union Confederation 'Artificial Intelligence for Workers, Not Just for Profit: Ensuring Quality Jobs in the Digital Age' (adopted at the Executive Committee meeting of 4-5 March 2025) 1.

26 Microsoft Research and others AI and the Future of Work in Africa White Paper (Outcome of a multidisciplinary workshop held in Nairobi, Kenya in November 2023, June 2024) 6, https://www.microsoft.com/en-us/research/wp-content/uploads/2024/06/AIandTheFutureofWorkinAfricaWhitePaper-June2024.pdf (accessed 30 September 2026); United Nations (n 2) 47; Cazzaniga and others (n 4) 2 & 22; Shen & Zhang (n (9) 1.

is widely accepted is that AI will profoundly disrupt the job market in multifaceted ways; however, how and to what extent remain matters of debate.[27]

Many studies report both neutral and positive effects of AI on employment, while others highlight its disruptive potential.[28] Reported positive outcomes include enhanced productivity and increased efficiency, accuracy, scalability and economic problem-solving capabilities.[29] Negative outcomes include threats to the value of human labour, widening inequalities, deskilling, precarious employment, threats to wages and job autonomy, discrimination, data privacy infringement and surveillance and job displacement.[30]

Job displacement, which is the focus of this research, is defined as 'the loss of a job as well as the dislocation of the individual workers from the enterprise'.[31] When it comes to job displacement, views vary widely. Although it is generally accepted that AI could cause job displacement, it is not clear how or to what extent.[32] Studies offer differing projections, with some suggesting that it will not lead to job displacement, while others argue that it will.[33] In line with this, Microsoft reports that up to 47 per cent of total US employment is at high risk of displacement due to AI automation.[34] Other studies argue that although it will lead to job losses, it will also create more jobs that offset them.[35]

Furthermore, much of the research on the impact of AI on the labour market has been conducted in the US and other developed countries, leaving significant gaps in understanding AI's employment implications

27 Microsoft Research (n 26) 6; D Guarascio & J Reljic 'AI and employment in Europe' (2025) 247 *Economics Letters* 1-4.
28 Guarascio & Reljic (n 27) 1-4.
29 McKinsey Global Institute (n 15) 7; Braganza and others (n 15) 485; Johar (n 12) 320-321.
30 Johar (n 12) 322; European Trade Union Confederation (n 25).
31 CE Klock and others 'Worker displacement: Public policy and labour-management initiatives in selected OECD countries' (Employment and Training Papers 24, Employment and Training Department, International Labour Office, Geneva) 2.
32 OECD *Employment Outlook 2023: Artificial intelligence and the labour market* (2023) 105, https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/07/oecd-employment-outlook-2023_904bcef3/08785bba-en.pdf (accessed 30 September 2026).
33 OECD (n 32) 105; Johar (n 12) 320;Guarascio & Reljic (n 27) 1-4;Microsoft Research (n 26) 6.
34 Microsoft Research (n 26) 11; Johar (n 12) 320.
35 Microsoft Research (n 26) 11, J Nartey *AI job displacement analysis (2025–2030)* (2025); Johar (n 12) 320; Gavaghan and others (n 1).

in Africa.[36] The scale of the impact remains uncertain about the impact that AI will have on the labour market in developed countries. If AI adoption remains slow, it means developing economies may fail to fully reap the benefits of AI.[37] Nonetheless, this delay does not necessarily put developing countries at a disadvantage, especially in addressing AI-related job displacement. This chapter argues that African states may be well placed to observe and learn from the experiences of developed countries, which are expected to experience both the benefits and disruptions of AI in the labour market earlier. Nonetheless, what is evident from observing large tech companies, such as Amazon, Microsoft, Google, IBM, Meta, HP, Siemens and Intel, is a consistent pattern of large-scale layoffs following heavy investment in AI in their workplaces.[38]

Historically, although technology often brings economic growth, it does not necessarily lead to inclusive and equitable human development.[39] Technological advancement, particularly in AI, is dominated by a few predominantly US-based tech giants, with limited participation of developing countries in AI development. This[40] market dominance, at both national and corporate levels, widens technological divides,

36 Guarascio & Reljic (n 28) 1-4.

37 UNCTAD (n 2) 47.

38 Q Wong 'Companies keep slashing jobs. How worried should workers be about AI replacing them?' 7 May 2025, https://www.msn.com/en-us/money/markets/companies-keep-slashing-jobs-how-worried-should-workers-be-about-ai-replacing-them/ar-AA1I0Zp0 (accessed 4 October 2026); J Novet 'Microsoft laying off about 6 000 people, or 3% of its workforce' 13 May 2025, https://www.cnbc.com/2025/05/13/microsoft-is-cutting-3percent-of-workers-across-the-software-company.html (accessed 4 October 2026); N Yadav 'Tech layoffs: Microsoft, IBM, Intel continue to cut jobs, over 1 lakh jobs slashed in 2025' 3 July 2025, https://www.indiatoday.in/technology/news/story/tech-layoffs-microsoft-ibm-intel-continue-to-cut-jobs-over-1-lakh-jobs-slashed-in-2025-2749906-2025-07-03 (accessed 4 October 2026); A Palmer 'Shopify CEO says staffers need to prove jobs can't be done by AI before asking for more headcount' 7 April 2025, https://www.cnbc.com/2025/04/07/shopify-ceo-prove-ai-cant-do-jobs-before-asking-for-more-headcount.html (accessed 4 October 2026); Yadav (n 38); Microsoft 'The latest in our company transformation' 6 July 2026, https://blogs.microsoft.com/blog/2026/07/06/the-latest-in-our-company-transformation (accessed 5 October 2026); Financial Express (Tech desk) 'Google, Microsoft, Amazon, IBM slash thousands of jobs in 2025 so far: Key reasons behind the wave' 26 June 2025, https://www.financialexpress.com/life/technology-google-microsoft-amazon-ibm-slash-thousands-of-jobs-in-2025-so-far-key-reasons-behind-the-wave-3893263/ (accessed 4 October 2026).

39 UNCTAD (n 2) 165.

40 Microsoft Research (n 26) 11; UNCTAD (n 2) 7.

leaving many developing nations at risk of missing out on its benefits.[41] Therefore, there is an urgent need to guide AI advances and prioritise responsible design, conscientious use and ethical oversight. [42]

3 The African Charter and the right to work

The right to work is expressly recognised as a fundamental right by various human rights treaties.[43] Originally formulated in the late eighteenth century, the right is among the first social and economic rights recognised in national and international law.[44] Beyond the individual, the right also encourages a stronger economy and a fairer, more stable society,[45] and benefits not only individuals but also society as a whole, helping it grow and thrive.[46]

This chapter specifically examines its recognition under the African Charter.[47] The Charter was adopted by the Organisation of African Unity (OAU), which was later replaced by the African Union (AU), on 27 June 1981, in Nairobi, Kenya.[48] The African Charter entered into force on 21 October 1986.[49] It has been ratified by 54 out of 55 African Union (AU) member states.[50]

The African Charter recognises the indivisibility of all rights: all 'generations' of rights are recognised and justiciable.[51] Further, it does not contain a derogation clause. Therefore, the limitations on the rights and freedoms enshrined in the African Charter cannot be justified by

41 A Desmarais 'AI could impact 40 percent of jobs worldwide in the next decade, UN agency warns' 7 April 2025, https://www.euronews.com/next/2025/04/07/ai-could-impact-40-per-cent-of-jobs-worldwide-in-the-next-decade-un-agency-warns (accessed 4 October 2026).
42 UNCTAD (n 2) 165.
43 Kwan (n 15) 41.
44 Arat & Waring (n 14) 56.
45 Johar (n 12) 318.
46 JN Udombana 'Social rights are human rights: Actualizing the rights to work and social security in Africa' (2006) 39 *Cornell International Law Journal* 187.
47 Centre for Human Rights Guide to the African human rights system: Celebrating 40 years since the adoption of the African Charter on Human and Peoples' Rights 1981-2021 (2021) 57.
48 African Charter on Human and Peoples' Rights (1981) OAU Doc CAB/LEG/67/3 rev 5, adopted 27 June 1981, entered into force 21 October 1986.
49 Centre for Human Rights (n 47) 57.
50 African Union 'States Parties to the African Charter', https://achpr.au.int/en/states (accessed 4 October 2026).
51 Centre for Human Rights (n 47) 6.

emergencies and special circumstances.[52] The grounds for limiting the rights and freedoms under the African Charter are set out in article 27(2).

The African Charter protects the right to work in article 15. It recognises the right as a basic human right that supports people's dignity, well-being and ability to provide for themselves. It provides that '[e]very individual shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work'.[53] The African Charter treats work not only as a right but also as a duty; it provides that every individual has a duty '[t]o work to the best of his abilities and competence'.[54] While the African Charter does not elaborate further on the substantive content of the right, the African Commission on Human and Peoples' Rights (African Commission)'s Principles and Guidelines provide more substantive content for the right to work.[55] These provide that the right to work should not be understood as an absolute and unconditional right to obtain employment, but rather as an obligation of the state to facilitate employment through the creation of an environment conducive to the full employment of individuals within society under conditions that ensure the realisation of the dignity of the individual.[56]

Additionally, the right to work includes the ability to freely choose which work to accept.[57] It also lists 16 minimum core obligations, which include the obligation to provide adequate protection against unfair or unjustified, arbitrary, and constructive dismissal, as well as other unfair labour practices.[58] States are also obligated to adopt a national employment policy and plan of action for the benefit of those employed in both the formal and informal sectors, as well as the unemployed.[59] Furthermore, states have a duty to take intentional steps to provide vocational training, support job creation, and provide job services

52 As above.
53 African Charter art 15; Udombana (n 46) 187.
54 Udombana (n 46) 187.
55 African Commission on Human and Peoples' Rights *Principles and Guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and Peoples' Rights* (2010) para 57.
56 African Commission (n 55) paras 57-58.
57 African Commission (n 55).
58 African Commission (n 55) para 59(c).
59 African Commission (n 55) para 59(d).

to help find work.[60] To do this, states are required to promote stable economic and social development by improving conditions for those in the informal sector, small businesses and subsistence farming.[61] In addition, unlike other treaty systems, the African human rights treaty system requires immediate, not progressive, obligations.[62]

However, it is important to note that the right to work under the African Charter is generally consistent with the formulation in international human rights and labour standards. It is similar to other legal instruments in that it protects workers across a broad range of rights that touch on access to work, working conditions and protection against its arbitrary loss. Still, it establishes no specific state duty or remedy, when technology-driven restructuring results in job loss.[63]

The right to work, in its current state, is structured around individual complaints within the employment context, with legal responses that involve reinstatement or compensation, but no remedy for job displacement. AI displacement has the potential to be widespread, increasingly anticipatory and sectoral. It also often impacts entry-level or informal workers, who generally fall outside the scope of dismissal law.[64] That matters particularly for African contexts with large informal economies.[65] As it stands, employers can lawfully replace workers with

60 African Commission (n 55) para 59(e).
61 As above.
62 Udombana (n 46) 199.
63 ICESCR arts 6-9; Universal Declaration arts 23-24; African Charter art 15; ILO Convention 158, arts 4, 13-14. Also, the right to work under art 6 of ICESCR is limited because its progressive realisation depends on each state's available resources and economic discretion; International Labour Organisation Forced Labour Convention 1930 (No 29); Freedom of Association and Protection of the Right to Organise Convention 1948 (No 87); Right to Organise and Collective Bargaining Convention 1949 (No 98); Equal Remuneration Convention 1951 (No 100); Abolition of Forced Labour Convention 1957 (No 105); Discrimination (Employment and Occupation) Convention 1958 (No 111); Minimum Age Convention 1973 (No 138); Occupational Safety and Health Convention 1981 (No 155); Worst Forms of Child Labour Convention 1999 (No 182); Promotional Framework for Occupational Safety and Health Convention 2006 (No 187); Protocol of 2014 to the Forced Labour Convention 1930; Decent Work in the Platform Economy Convention, 2026 (No 193); https://www.ilo.org/international-labour-standards/conventions-protocols-and-recommendations.
64 S Sarala 'The apprenticeship void: AI augmentation and entry-level displacement in knowledge work' (2026) *Vilakshan-XIMB Journal of Management* 174.
65 S Brown, P Kelly & SK Phillips 'Informal economies and informal workers in global capitalism' in S Brown, P Kelly & SK Phillips *Informal workers and a political economy of lifelong learning: Provocations from the margins of global capitalism* (2024) 1-2.

AI, but traditional remedies such as reinstatement or compensation cannot address widespread job displacement.[66]

4 The right to development

The African Charter is the first treaty instrument to explicitly recognise development as a right.[67] On the international stage, the right to development (RtD) is established in the United Nations (UN) Declaration on the Right to Development (DRtD), which is not legally binding. Notably, at the regional level, the right has only been guaranteed in two human rights treaties – the African Charter and the Arab Charter on Human Rights.[68] The African Charter has several provisions that directly or indirectly deal with the RtD. Its Preamble and articles 1, 2, 20, 21(1) and, primarily, article 22 address the right to development.[69]

Article 22 of the Charter, which enshrines the RtD, provides as follows:[70]

> (1) All peoples shall have the right to their economic, social, and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
> (2) States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

The right, as established in article 22, highlights that civil and political rights cannot be dissociated from economic, social and cultural rights in both their conception and their universality, emphasising that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.[71] Article 22 also guarantees to the

66 S Vitoratos 'Mass-job redundancies as a result of AI adoption' Centre for European Constitutional Law (REFRAIME), https://refraime.csd.eu/wp-content/uploads/article-12-en.pdf (accessed 4 October 2026).

67 MF Angerasa & HB Daba 'The right to development in Africa: Its normative evolution and current state' (2021) 2 *Journal of International Law and Commerce* 1–11.

68 S Nasirumbi 'Revisiting the *Endorois* and *Ogiek* cases: Is the African human rights mechanism a toothless bulldog' (2020) 4 *African Human Rights Yearbook* 506.

69 OC Okafor 'A regional perspective: Article 22 of the African Charter on Human and Peoples' Rights, chapter 27' in United Nations *Realising the right to development: Essays in commemoration of 25 years of the United Nations Declaration on the Right to Development* (2021) 373.

70 Angerasa & Daba (n 67) 75.

71 'African Charter on Human and Peoples' Rights' https://au.int/en/treaties/african-charter-human-and-peoples-rights (accessed 4 October 2026).

peoples of Africa the right to economic, social and cultural development that takes into account their freedom, identity and equality in the enjoyment of the common heritage.[72] This emphasises that development cannot be attained at the expense of human rights.

Article 22 of the African Charter makes it clear that the economic capabilities of a state's people must be improved to comply with this right.[73] Hence, an index for measuring a state's realisation of the economic component of this right may be drawn from a critical analysis of the adequacy of the standard of living of the people in the state.[74] Apart from that, the substantive contents of the right to development under article 22, its scope and other elements are not elaborated in detail.[75] Nonetheless, case law has helped fill some of these gaps and clarify the content of article 22 of the African Charter.

The jurisprudence of the African Court on Human and Peoples' Rights (African Court) has gradually evolved. Currently, it offers considerable insight into the character and conceptualisation of the right to development as provided in article 22.[76] The *Bakweri Land Claims* case was an early matter brought before the African Commission, but it did not pass the admissibility stage, so the Commission did not reach the merits of the issue.[77] The opportunity to make such a pronouncement nevertheless materialised when the African Commission and the African Court considered two Kenyan cases. The *Endorois* case represents the first legal recognition of the right to development globally.[78] It was adopted by the African Commission, rather than as a judgment of the African Court.[79] The *Endorois* communication was brought before the African Commission in 2003 because the African Court had not yet been established and operationalised, and the African Commission was the available regional

72 J-CN Ashukem & CC Ngang 'Land grabbing and the implications for the right to development in Africa' (2022) 22 *African Human Rights Law Journal* 412.
73 R Adeola 'The right to development under the African Charter: Is there an extraterritorial reach?' in CC Ngang, S Kamga & V Gumede (eds) *Perspectives on the right to development* (2018) 36.
74 Adeola (n 73) 37.
75 Angerasa & Daba (n 67) 76.
76 Okafor (n 69) 375-376*; Bakweri Land Claims Committee v Cameroon* (2004) AHRLR 43 (ACHPR 2004) para 206.
77 Okafor (n 69) 376.
78 *Endorois* (n 23); Nasirumbi (n 68) 506.
79 African Charter arts 30, 55-59 & 22; African Union Silencing the Guns: Creating Conducive Conditions for Africa's Development (AU Handbook 2020) 132-133.

mechanism for determining the communication under the African Charter.[80] The Commission found a violation of article 22.[81] By the time the case of *Ogiek* was brought, the African Court had been established.[82] The African Court officially affirmed the right to development in its jurisprudence, building upon the framework established by the African Commission in *Endorois*. The African Court held that Kenya violated the Ogiek community's right to development by evicting them without effective consultation.[83]

Ogiek did not provide much information in terms of the content of the right to development. *Endorois*, therefore, remains the most authoritative decision on article 22 regarding the right's normative content.[84] In *Endorois*, the African Commission described the right to development as both constitutive and instrumental, or useful as both a means and an end. This means that a violation of either the procedural or substantive element constitutes a violation of the right to development.[85] The Commission also clarified that satisfying only one of the two prongs was insufficient to establish the right to development.[86]

The African Commission also noted that recognising the right to development required fulfilling five main criteria.[87] These are development must be equitable; non-discriminatory; participatory; accountable; and transparent, with equity and choice as important, overarching themes in the right to development.[88] The African Commission also stated that the right to development is very much about choice.[89] The right to development was not simply about providing benefits, but also about respecting people's freedom to choose and make decisions about their own lives, rather than having decisions imposed on

80 African Charter.
81 *Endorois* (n 23) paras 269 & 298.
82 Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights (adopted 1998; entered into force 2004) arts 1-2; the Court complements the Commission under art 2.
83 *African Commission on Human and Peoples' Rights v Kenya* Application 6/2012 Judgment, 26 May 2017, https://www.african-court.org/cpmt/details-case/0062012 paras 207-211 (*Ogiek*).
84 *Ogiek* (n 83).
85 *Endorois* (n 23) para 277.
86 As above.
87 A Sengupta 'Development cooperation and the right to development' Francois-Xavier Bagnoud Centre Working Paper 12 (2003) 7.
88 *Endorois* (n 23) para 277.
89 *Endorois* (n 23) para 278.

them.[90] This emphasises that freedom of choice is integral to the right to development.[91]

Furthermore, the African Commission stated that development should empower the Endorois community, not just provide food aid. This required enhancing their capabilities and expanding their choices to realise their right to development fully.[92] Lastly, the African Commission noted that the right to development was violated when the development in question diminished the community's well-being.[93]

5 The right to development as a normative framework for the right to work

As has been highlighted, AI is increasingly being promoted as a critical driver of development, particularly for developing countries in Africa.[94] Despite the benefits that AI offers in the workplace, including increased productivity and efficiency, it also has the potential to lead to large-scale job displacement. Responses that developed countries have adopted to counteract the job displacement include offering more training so workers can gain new skills;[95] strengthening social protection systems;[96] investment in expanding formal education programmes (for example, in Ireland); and creating initiatives to raise the level of AI skills in the population through vocational training and lifelong learning (for example, in Germany, Finland and Spain).[97] The focus of most initiatives appears more reactive than proactive, especially regarding job losses. Still, the initiatives are struggling to keep pace with AI deployment in the workplace, which is changing faster than workers can keep up.[98] Also, it does not help that, even with training, projections indicate it could take time and effort for workers to find or even move into these new roles.[99]

90 *Endorois* (n 23).
91 *Endorois* (n 23).
92 *Endorois* (n 23) para 283.
93 *Endorois* (n 23) para 294.
94 AO Aderibigbe and others 'Artificial intelligence in developing countries: Bridging the gap between potential and implementation' (2023) 4 *Computer Science & IT Research Journal* 185-199.
95 OECD (n 32)118.
96 OECD (n 32).
97 OECD (n 32) 6.
98 UNCTAD (n 2) 47; OECD (n 32) 118.
99 UNCTAD (n 2); OECD (n 32).

Hence, although some states have taken steps to prepare their workforce for AI-induced job changes, these initiatives remain limited.[100]

This chapter argues that the African Charter provides a promising response to AI-driven job displacement. It proposes using the RtD as the normative framework for asserting the right to work under the African Charter. It advocates utilising the right to work within the framework of the RtD. This approach draws on the RtD as a normative framework through which the right to work can be articulated as a collective claim. This is because the RtD encompasses and is intrinsically linked to many other economic, social and cultural rights, including the right to work. The African Commission's resolution on the preparation of a General Comment on the right to development in Africa[101] 'recognises that the principles of the right to development require that equal opportunity be given to all peoples to have access to basic education, health services, food, housing, fair distribution of income, and employment', which is key for this research paper.[102] This speaks to the interconnectedness of the right to work and other economic and social rights to the right to development. Indeed, article 22 of the African Charter makes it clear that the economic capabilities of the people in a state must be improved to comply with this right.[103]

Traditional human rights frameworks treat individuals as autonomous rights holders, and while protecting individuals from direct violations of their rights is necessary, it is insufficient for addressing the social injustices created by neoliberal development.[104] Many social problems are shaped by structural and collective conditions that individuals cannot control on their own.[105] A collective right to development helps address the limitations of an individual rights approach by recognising

100 OECD (n 32) 6.

101 Resolution on the Preparation of a General Comment on the right to development in Africa ACHPR.Res.586 (LXXIX) 2024 | African Commission on Human and Peoples' Rights (adopted 10 June 2024).

102 African Commission Resolution 586 (n 101).

103 Adeola (n 73) 36.

104 Although the Committee on Economic, Social and Cultural Rights has interpreted the right to work as also collective (General Comment 18, para 6), this is limited. See n 22 on more of this; AM Fox & BM Meier 'Health as freedom: Addressing social determinants of global health inequities through the human right to development' (2009) 23 *Bioethics* 112.

105 BM Meier & AM Fox 'Development as health: employing the collective right to development to achieve the goals of the individual right to health' (2008) *Human Rights Quarterly* 293 & 294.

that rights such as health, work, education, housing and food depend on fair economic and social development.[106] It therefore shifts attention from individual protection alone to addressing structural inequality and the conditions necessary for people to genuinely enjoy their rights.[107]

Sengupta first expressed this argument in his writings about the connection between the right to health and the right to development.[108] Building on this, Fox and Meier argue that the right to development provides a collective framework for challenging neoliberal structures and inequalities within the international economic order, thereby enabling the realisation of individual rights such as the right to health. In line[109] with this, the chapter adopts this approach as a legal response to AI-facilitated job displacement, arguing that the individual right to work cannot effectively respond to the neoliberal structures driving the deployment of AI-enabled automation in the workplace.

Further, the RtD as framed by article 22 of the African Charter and interpreted by the jurisprudence of the African Court and Commission, places a broader obligation on states to pursue economic and social policies that promote inclusive and participatory development. Hence, this chapter argues that the normative content of the right to development provides the structural dimension that allows the right to work and other human rights to be read as part of a people's development.[110] AI displacement is a structural issue that requires systematic government intervention through upskilling and reskilling initiatives, strengthening social protection systems, fostering AI-human collaboration, job creation and policies that manage technological change and protect workers collectively.[111] The right to development as a normative framework requires collaborative effort from the international community, promotes poverty-reducing economic growth, and reduces

106 Fox & Meier (n 104) 112.
107 Meier & Fox (n 105) 293.
108 AK Sengupta 'Preface' in SP Marks (ed) *Implementing the right to development: The role of international law* (2008); A Grover 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' UN Human Rights Council, 17th session, Agenda item 3, UN Doc A/HRC/17/25 (12 April 2011) para 30.
109 Fox & Meier (n 104) 112.
110 Tampubolon (n 5).
111 MH Soueidan & R Shoghari 'The impact of artificial intelligence on job loss: Risks for governments' (2024) 57 *Technium Social Science Journal* 2026.

inequalities.[112] International cooperation is addressed comprehensively through the RtD.[113]

Additionally, it is important to recognise the need to balance the rights to science, innovation and work.[114] On the one hand, the right to science and innovation supports the development and use of AI in the workplace because people should be able to benefit from scientific and technological progress.[115] On the other hand, it threatens the right to work by replacing workers.[116] These rights are not absolute and may be restricted when they conflict with other human rights; the RtD provides a framework for reconciling or balancing the development opportunities created by AI-driven technological advancement with the right to work.[117]

6 Application of the right to development as a normative framework

The landmark *Endorois* case provides a normative framework comprising five main criteria or elements that should be satisfied in enforcing the right to development. These are equitability; non-discrimination; participation; accountability; and transparency, with equity and choice as important, overarching themes.[118]

To begin with, the equitable element of the right to development requires that the use of AI, in this case AI-enabled automation, in the job market should promote both growth and equity. It also entails ensuring equality of opportunity or capabilities, which may translate into a fair distribution of income or benefits derived from the exercise of rights.[119] Equity can provide a basis for advocating adopting human job quotas in specific industries or sectors.[120] This would enable states to justify the

112 Soueidan & Shoghari (n 111).
113 Grover (n 108) para 32.
114 Kwan (n 15) 42-43; ICESCR art 15(1)(b); Universal Declaration art 27(1).
115 Kwan (n 15) 42-43.
116 Kwan (n 15).
117 Meier & Fox (n 105) 293.
118 *Endorois* (n 23) para 277.
119 *Endorois* (n 23).
120 United Nations (n 2) 165; O Bowcott 'Rise of robotics will upend laws and lead to human job quotas, study says' 4 April 2017, https://www.theguardian.com/technology/2017/apr/04/innovation-in-ai-could-see-governments-introduce-human-quotas-study-says (accessed 4 October 2026).

implementation of policies that limit the number of jobs that can be automated. So, although it would allow AI innovation and deployment, it would also ensure that quotas maintain a human workforce. This would require the state, in consultation with industry stakeholders, to agree on appropriate quotas.

The right to development framework prescribes promoting non-discrimination.[121] Hence, employers who want to incorporate AI may be required to first conduct impact assessments or audits of the potential effects of introducing AI-enabled automation systems before and after deployment.[122] While this can be used to assess the risk of bias, it could also be used to predict potential job losses. Further, an audit ensures transparency and accountability, enabling regulators and workers to understand and mitigate negative impacts and protect workers' rights throughout the process of AI deployment.[123]

Third, the participatory criterion requires that all decisions should fully involve the beneficiaries. Beneficiaries should have full access to the decision-making process and ownership over the development programme.[124] This demands that beneficiaries be active and informed participants in the formulation, implementation and monitoring of development policies.[125] In *Endorois*, the African Commission found that the Endorois people should have been adequately involved in the development process, and failure to do so was an infringement of their right to development.[126] Also, the Commission recognised that the unequal bargaining position in consultations does not constitute adequate participation.[127] The Commission further stated that meaningful participation requires not only access to information, but also its presentation in a culturally and socially appropriate, accessible and understandable form.[128] Hence, in this case, workers should also be

121 UNCTAD (n 2); Bowcott (n 120).
122 S Long, J Pesner & T Romanoff 'Explainer: Impact assessments for artificial intelligence' (9 November 2022), https://bipartisanpolicy.org/blog/impact-assessments-for-ai (accessed 29 July 2025); C Novelli and others 'AI risk assessment: A scenario-based, proportional methodology for the AI Act' (2024) 3 *Digital Society* 13.
123 Long and others (n 122); Novelli and others (n 122).
124 As above.
125 Long and others (n 122); Novelli and others (n 122).
126 *Endorois* (n 23) para 269.
127 *Endorois* (n 23) para 282.
128 *Endorois* (n 23).

allowed to meaningfully engage in consultation before AI systems are deployed in the workplace.

Then there is transparency, which is necessary for establishing accountability. It implies openly bringing out all the interrelations and linkages among different actions and actors.[129] Both participation and transparency put the people of Africa at the centre of any discussions or decisions concerning development, in this case the use of AI in the workplace. This means actively involving workers in planning, implementation and evaluation of development projects, ensuring that their voices are heard, and their rights are given priority even before development initiatives. This stance provides a foundation for the claim that necessity and proportionality tests should be implemented before the introduction of AI-enabled automation. This could be used to require companies or governments in question to justify the use of automation in the workforce to replace human workers.[130] This means that automation should proceed only where no reasonable human-based alternative exists.[131] This would act as protection against profit-driven automation, which puts profit above workers' rights. It also provides an avenue to push for the development of AI systems that facilitate collaboration with humans and not the displacement of human workers.[132] When AI technology is collaborative rather than displacing, it helps to protect the right to work while facilitating innovation.[133] It could also provide the basis for implementing a moratorium or freeze on the use of AI in certain industries to replace human workers. This would allow states to defer or reject the adoption of AI automation while assessing its potential impacts before opening their markets.

The fifth element of the RtD is accountability. This means that duty holders, such as states and intergovernmental organisations, should be held responsible for respecting, protecting and fulfilling human rights.[134] It further pushes for the establishment of 'appropriate adjudicating and monitoring mechanisms through a formal, legal process or through an

129 As above.
130 Novelli and others (n 122).
131 UNCTAD (n 2) 3.
132 UNCTAD (n 2); Johar (n 12) 318.
133 UNCTAD (n 2) 165; OECD (n 32) 118.
134 UNCTAD (n 2); OECD (n 32).

alternative (and legitimate) independent process'.[135] This requirement for accountability can be used to invoke recognition of human intervention in the adoption of AI, not just in the labour market but across different industries.[136] Human intervention acts as a protective net against ethical concerns, such as discrimination, that arise with full AI automation.[137]

7 Conclusion

AI is neither inherently good nor bad for workers.[138] The impact it will have on human development, whether positive or negative, will depend on how humans choose to develop and use it. This is where the law comes in to provide a framework that balances innovation with the protection of human rights.[139] The RtD provides a normative framework that demands that people should be put at the centre of any development initiatives.

This chapter has argued that the RtD under article 22 of the African Charter can serve as a framework for interpreting and enforcing the right to work and other individual rights. This conceptualisation of the right to work can provide inclusive, participatory and structural legal protections in response to AI-driven job displacement. The African Court has yet to engage substantively with the potential of article 22 to operate as a normative framework in this manner. Still, the argument fits the Charter's text, the interdependence of rights, and the existing jurisprudential approaches of the African Court and Commission regarding article 22.

135 As above.
136 M Almada 'Human intervention in automated decision-making: Toward the construction of contestable systems' paper presented at the ICAIL 2019 – 17th International Conference on Artificial Intelligence and Law, Montreal, Canada, 17-21 June 2019 (University of São Paulo & Lawgorithm); S Genga 'A review of the adequacy of Kenya's and South Africa's data protection legal frameworks in protecting persons with disabilities from artificial intelligence algorithmic discrimination' (2025) 2 *African Journal on Privacy & Data Protection* 56, 58.
137 Almada (n 136); Genga (n 136).
138 UNCTAD (n 2) 165.
139 UNCTAD (n 2).

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