CHARTING THE COURSE:

Embedding children's rights in responsible business conduct

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SUMMARY

Business is intrinsic to the social and economic fabric of our world, and virtually all children are impacted one way or another by business activity – as consumers of products and services, through exposure to marketing and advertising, as young workers or child labourers, as users of digital platforms, or through the environments where they live and play. And business activities and relationships that adversely impact parents and caregivers can have indirect but significant impact on children.

This report takes the opportunity of the 10th anniversary of the Children's Rights and Business Principles (CRBPs), developed by UNICEF, the UN Global Compact and Save the Children to lay out the implications of the Convention on the Rights of the Child for the business world, to review progress on the integration of children's rights into responsible and sustainable business conduct and to map out key issues for acceleration over the next decade.

The report challenges the common assumption that child labour is the sole or even primary adverse business impact on children, while recognizing its importance and the significance of initiatives to end it. The reality is that business activities and relationships can have multiple adverse impacts on children. These include through the climate crisis and pollution, gender and racial stereotyping, sexual exploitation and abuse, the impact of unhealthy products, online practices and business models, and much more.

Charting the Course challenges the common assumption that child labour is the sole or even primary adverse business impact on children, while recognizing its importance and the significance of initiatives to end it. The reality is that business activities and relationships can have multiple adverse impacts on children.

Human rights-based responsible and sustainable business conduct is a core pathway for building systemic and lasting business contribution to sustainable development. A key mechanism is human rights and environmental due diligence identifying and addressing salient human rights impacts (those impacts on human rights that stand out for their severity and likelihood). This is mapped out in the United Nations "Protect, Respect and Remedy" framework operationalized in the United Nations Guiding Principles on Business and Human Rights and complemented by the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.

The UNGPs have brought clarity to the definition of State duties and business responsibilities, articulating the state duty to protect human rights in the context of business activities, the business responsibility to respect human rights in all activities and relationships (in other words, throughout the value chain), and the fundamental importance of access to remedy for victims of business-related human rights abuses.

Sustainable development requires business respect for human rights: Addressing adverse impact is not just a business responsibility but is necessary for positive impact at scale over time and is fundamental to a just transition to a low carbon economy. This is not to downplay the necessary business contribution of assets, resources, products, services, innovations, skills and expertise towards the delivery of the Sustainable Development Goals and the Paris Climate targets – but voluntarily doing good in one area is undermined by causing harm elsewhere. Increasingly, governments are introducing mandatory due diligence requirements and other mechanisms demanding responsible and sustainable business conduct. The European Union, for example, is introducing a series of important directives aimed at social impact reporting and due diligence likely to have global impact.

Progress: The CRBPs are based on the UNGPs, and there has been some progress on embedding children's rights within responsible business practice. For example, compared to 10 years ago more businesses are including reporting on action against child labour and on addressing one or more other forms of adverse impact in sustainability and other forms of business reporting. Although it is not possible to quantify, children's rights are an emerging theme in responsible investor stewardship.

Many industry platforms have begun to include children's rights in responsible business guidance. Certain industries – for example, the cocoa and palm oil sectors, and travel and tourism – have developed sector-wide initiatives to combat child labour or sexual exploitation. Family-friendly

workplace policies and practices have emerged as a particular theme, especially during the COVID-19 pandemic. A handful of governments have framed mandatory human rights due diligence around child labour.

But there are still **major gaps in implementation and progress is slow.** For example, although 84% of large companies reviewed by the Global Child Forum in 2021 had a child labour policy, only 58% implemented it and even fewer reported on it. Remediation is globally a particular weakness, which is telling because it is a strong proxy indicator of the implementation of robust due diligence processes. Furthermore, child labour remains the most widely recognized adverse business impact, with even less progress made on most other issues.

Children are insufficiently visible in the design and implementation of measures and mechanisms, and even less heard. The report points out that when businesses fail to identify their salient impacts, the result is children continuing to experience abuses. Leaving children invisible means risking leaving out 30% of the world's population. That is not just an oversight. In the context of the challenge of global sustainability, it is negligent. As the High Commissioner for Human Rights said in her opening remarks to the 50th session of the Human Rights Council: "We cannot fix what we cannot see."

Charting a course for the future: The report concludes that due diligence and other mechanisms to require or implement responsible business conduct will not work for children unless their rights and needs are designed in from the very start as a standard prerequisite. This also applies to the rights of other groups at risk of marginalization and exclusion, such as women, indigenous peoples, national and ethnic minorities, religious and linguistic minorities, persons with disabilities, migrant workers and their families, and, especially in the context of business activities and relationships, informal workers. This vision of inclusivity in design is consistent with a basic tenant of development practice addressing inequity, which is that systems that reach the most marginalized are effective for everyone.

Looking ahead over the next decade, voluntary approaches by businesses alone will not lead to the required scale of transformative action. **Governments need to step up** for children through legislation against egregious systemic adverse impact and for human rights and environmental due diligence, including remediation. In addition, governments should also be considering other measures, such as incorporating human rights obligations into the outsourcing of public services or when pursuing investment objectives when they act as economic actors.

The size and global reach of **multinational enterprises and business platforms** make them leading actors in the drive for responsible business conduct, and the importance of respecting human rights throughout their value chains makes them key levers for transformation. However, **small and medium-sized enterprises (SMEs)** make up 95% of all businesses, and there is need for greater attention to be paid to developing effective human and environmental rights due diligence and other mechanisms that take into account the more limited capacity to be found among SMEs. Alongside SMEs themselves, governments, business associations and investors have critical roles to play in achieving this.

There is significant **scope for expansion by investors** putting in place policies and due diligence and grievance mechanisms aligned with the UNGPs and incorporating better visibility of children, both in their own operations and demanding them in the conduct of investees. Investor stewardship activities and collective engagement initiatives could be an important lever to both improve child rights policies and practices of investee companies, as well as to raise expectations on child rights across the board.

More systemically, acceleration in the financial sector is closely linked to **improved sustainability reporting standards and practices.** Alignment of standards within sustainability reporting, removing lack of coherence, enhancing the visibility of children's rights beyond child labour, and ensuring data on company practices is available to drive analysis by investors on children's rights, would be another significant contribution to the integration or children's rights into Environmental Social and Governance ESG) assessments. It is also necessary to develop a better definition of the "social" in ESG, framed by human rights, including the rights of children. Disaggregating social reporting standards by age as well as by gender would go a long way towards shining light on multiple issues that affect children.

Due diligence and other mechanisms to require or implement responsible business conduct will not work for children unless their rights and needs are designed in from the very start as a standard prerequisite. This also applies to the rights of other groups at risk of marginalization and exclusion.

More widespread understanding of the actual and potential adverse impacts of business on children's rights is another essential element. Learning more about "what works" for children (and business) – in other words what actions lead to good outcomes for children – in changing business activities is an imperative.

Business innovation in identifying and sharing "what works" with peers is to be encouraged. Improved tracking of results in ways that allow shared results narratives between businesses, governments and development organizations, based on compatible results frameworks is central to the ambition of the next 10 years.

Business addressing the root causes of the human rights abuses to which practices and relationships are linked creates lasting common interest with the development world. This raises the issue of drawing the line between business human rights responsibility and obligation and voluntary contribution, a line that is not clear and which will vary according to issue and situation. But it also opens the door to new forms of collaboration and collective action to address social goals, based on shared theories of change. This is something that international development organizations should be actively pursuing, based on expertise and analysis that integrates business impact on children into analysis of the causes of child deprivation and pathways to address it.

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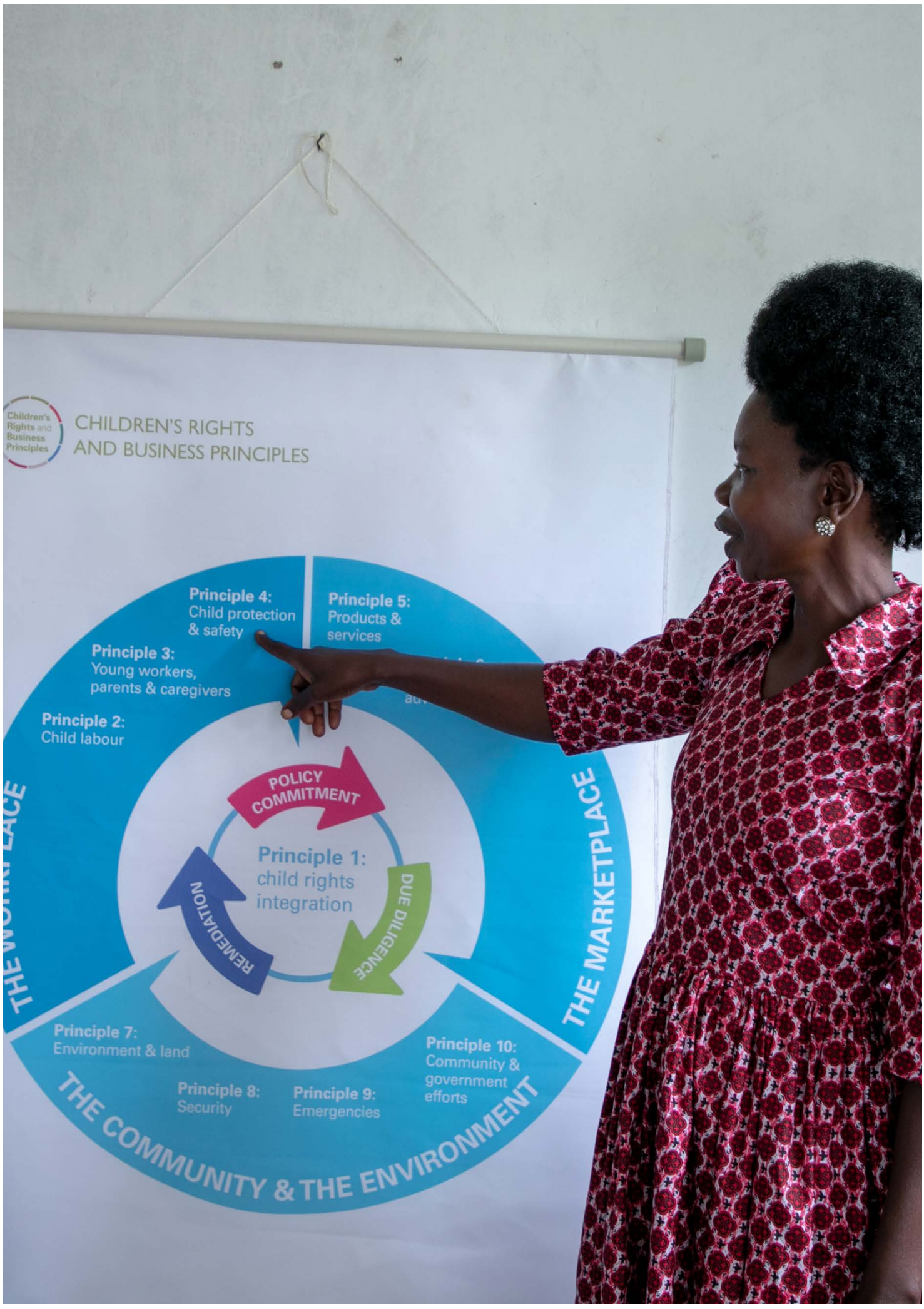

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CHAPTER 1: INTRODUCTION

Business is intrinsic to the social and economic fabric of our world, and virtually all children are impacted one way or another by business activity – as consumers of products and services, through exposure to marketing and advertising, as young workers or child labourers, as the children of workers, as users of digital platforms, or through the environments where they live and play.

Charting the Course was written to mark the 10th anniversary of the Children's Rights and Business Principles, published in 2012 by UNICEF, the United Nations Global Compact and Save the Children. It reviews developments over the past decade, with a focus on business impacts on children's rights and their importance in regard to sustainability, and looks forward to the next 10 years.

And it explores some fundamental questions:

- What are the impacts of business on children? Why is addressing them vital for business, for children, and for society?
- Are children's rights visible in contemporary responsible business conduct?
- How can action be accelerated to make sure that children are seen and heard, and children's rights are integrated into the government duty to protect human rights in the context of business activities and the business responsibility to respect human rights?

Charting the Course offers a fresh take on questions that have not been asked systematically or responded to comprehensively elsewhere. Sometimes it is beyond the report's scope to ask all of the vital questions or respond to every relevant issue. In all cases the purpose is to bring children to the forefront of the discussion and stimulate further inquiry between the many stakeholders, including business, government and civil society.

The report is based on the review of secondary literature published in English and Spanish, carried out between May and September 2022, and consultations with UNICEF and Save the Children staff working on programmes and with businesses in national, regional and headquarters offices. The text has benefitted from input from experts on responsible business conduct from business, civil society and academia (see acknowledgements above).

1.1 Origins of the Children's Rights and Business Principles

The Children's Rights and Business Principles (CRBPs) were developed because children's rights are not often featured as a prominent part of responsible and sustainable business conduct, with the exception of child labour. Children are not regularly or fully recognized as key business stakeholders.

Based on the United Nations Guiding Principles on Business and Human Rights (UNGPs),[1] the CRBPs take a practical approach to laying out the implications of the **Convention on the Rights of the Child**[2] for the business world – business institutions, government policymakers, regulators, investors and other business stakeholders, and the relationships between them. They reflect the many ways that businesses impact the complete range of children's rights, among them: child labour, and decent work for parents and caregivers; the right to safety and health, including in security arrangements; the effects of products and services, marketing and advertising; and environmental issues such as pollution, and land acquisition and use.

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1 Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework', OHCHR, New York and Geneva, 2011.

2 United Nations, Convention on the Rights of the Child, New York, 20 November 1989. The UNICEF web page offers links to the full text, a child-friendly version and other resources on the Convention.

The CRBPs were designed to be a guide for businesses, investors and governments. They do not create new international legal obligations and, unlike the UNGPs, do not technically have any formal status in soft international law. They are framed by the formula "All businesses should …" which might mistakenly be taken to imply that they do not recognize the state duty to protect, respect and fulfil the human rights of children in relation to business activity. The reality is that the routes to respecting children's rights require action by both government and business.

The Committee on the Rights of the Child – which is the treaty monitoring body for implementation of the Convention on the Rights of the Child – clearly outlines the roles and responsibilities of States in General comment No. 16 (2013):

- The obligation to protect means that States should take all necessary, appropriate and remedial measures to prevent business enterprises from causing or contributing to abuses of children's rights. One of the implications of this is that the State duty includes legislation and regulatory action to prevent systemic egregious adverse impact on children.
- The obligation to respect means that States should not directly or indirectly aid, abet or facilitate any infringement of children's rights, and should ensure that all actors respect children's rights in the context of business activities and operations.
- The obligation to fulfil requires States to take positive action to facilitate, promote and provide for the enjoyment of children's rights. Among other requirements for meeting this obligation, this means that States should provide stable and predictable legal and regulatory environments that support and require business respect for children's rights.[3]

The Children's Rights and Business Principles take a practical approach to laying out the implications of the Convention on the Rights of the Child for the business world – business institutions, government policymakers, investors and other business stakeholders, and the relationships between them.

The Children's Rights and Business Principles

ALL BUSINESS SHOULD →→→

1. Meet their responsibility to respect children's rights and commit to supporting the human rights of children
2. Contribute to the elimination of child labour, including in all business activities and business relationships
3. Provide decent work for young workers, parents and caregivers
4. Ensure the protection and safety of children in all business activities and facilities
5. Ensure that products and services are safe, and seek to support children's rights through them
6. Use marketing and advertising that respect and support children's rights
7. Respect and support children's rights in relation to the environment and to land acquisition and use
8. Respect and support children's rights in security arrangements
9. Help and protect children affected by emergencies
10. Reinforce community and government efforts to protect and fulfil children's rights

UNICEF, UN Global Compact and Save the Children, 2012

Children, businesses, investors, governments, civil society, trade unions, national human rights institutions and United Nations entities were all part of the consultations that formed a crucial part of developing the principles.

3 Committee on the Rights of the Child, General comment No. 16 (2013), paras. 26–29.

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1.2 Challenges and crises compel renewed commitment

From current events to trends over time, the world continues to be turbulent – and children are often among those most affected by mutually compounding challenges and crises, even though they are the least responsible for creating them.

The **climate crisis** is the defining human and child rights challenge of this generation and is having a devastating impact on children's well-being.[4] It distinctly illustrates the huge social and environmental costs of growth models that fail to be informed by long-term thinking to incorporate the adverse impacts and future costs to society and the planet as part of establishing the real costs of growth. The consequences are being borne by children, both now and in the future.

Globally, the number of **violent conflicts** is the highest since 1945. Approximately 2 billion people were living in conflict-affected countries at the end of 2020.[5] Of these, 452 million children – 1 in 6 – were living in a conflict zone.[6] In 2021 the number of refugees was the highest ever recorded. The International Monetary Fund's predictions that economic damage from conflict in Ukraine would contribute to a significant slowdown in global growth in 2022, rising inflation due to increasing food and gas prices, and a food crisis for many of the world's poorest have come to pass.[7]

The **COVID-19 pandemic** has disrupted the lives and livelihoods of billions of people and resulted in widespread economic and social impacts at both large-scale and household levels. The United Nations Secretary-General has reported "that years, or even decades, of development progress have been halted or reversed."[8]

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4 *See, for example:* United Nations Children's Fund, The Climate Crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index, UNICEF Division of Communication, New York, August 2021; Save the Children, 'Born into the Climate Crisis: Why we must act now to secure children's rights', Save the Children International, September 2021.

5 Economic and Social Council, 'Progress towards the Sustainable Development Goals: Report of the Secretary-General', E/2022/xx (Advance unedited version), United Nations, New York, 2022, para. 4.

6 Kamøy, Kristin, Pia Podieh and Keyan Salarkia, *Stop the War on Children: A crisis of recruitment*, Save the Children, 2021, p. 3.

7 International Monetary Fund, *World Economic Outlook: War sets back the global recovery,* IMF, Washington, D.C., April 2022.

8 Economic and Social Council, 'Progress towards the Sustainable Development Goals: Report of the Secretary-General', E/2022/xx (Advance unedited version), United Nations, New York, 2022, para. 2.

Even before the war in Ukraine, Save the Children and UNICEF projected that by the end of 2021 an estimated 100 million more children could be living in multidimensional poverty compared to 2019.[9]

Between 2016 and 2020, **global progress to end child labour** was stagnant for the first time in 20 years, as measured in joint estimates by the International Labour Organization (ILO) and UNICEF. Though the percentage of children in child labour stayed the same, the absolute number increased by more than 8 million. Without new mitigation measures, the number of children aged 5–17 in child labour could rise from 160 million in 2020 to 168.9 million by the end of 2022.[10]

Globalization may have increased economic growth overall, but the benefits and impacts are not shared equally. According to the World Inequality Report 2022, 52% of all income is earned by 10% of the population, but only 8.5% goes to the poorest 50%. An individual from the top 10% of the global income distribution earns, on average, US$122,100 a year, compared to US$3,920 for an individual from the poorest half.[11] This huge **divide in economic equality** is a social and political time bomb.

But the past decade has also seen important forward-looking developments that hold great potential for building new, better realities – as long as governments, the business world and civil society are sufficiently bold, practical and resolved to take action with urgency.

The **Paris Climate Agreement** was an international landmark, although the world has a lot to do right now if it is to achieve climate targets.[12] Subsequently, a sharper, more detailed picture of the scale and complexity of the crisis has emerged, along with the role of human activity, including that of business, and how climate change is compounding and intensifying other challenges, with the economically and socially marginalized the most badly affected.

In its Sixth Assessment Report (2022), the International Panel on Climate Change describes in detail how changes in climate, such as more frequent and intense extreme weather events, are impacting institutions and infrastructure, damaging physical and mental health, driving displacement, and exposing millions of people to food insecurity and reduced access to water. The report also notes that "there is a rapidly narrowing window of opportunity to enable climate resilient development … pathways are still possible by which communities, the private sector, governments, nations and the world can pursue climate resilient development."[13]

Since 2011, an authoritative framework defining States duties to protect human rights in the context of business activities and relationships and the corporate responsibility to respect human rights has been provided by the UNGPs. In 2015, The **Sustainable Developments Goals** (SDGs) set ambitious targets for progress across multiple issues, including poverty, decent work, quality education, clean water, sustainable cities, justice, biodiversity and climate.

Through insights from these and other 21st century developments – linking back in many ways to the Brundtland Report of 1987[14] – a comprehensive understanding of sustainability has emerged that recognizes the interconnectedness of climate, environment, human rights, and social and economic justice.

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9 Save the Children and United Nations Children's Fund, 'Impact of COVID-19 on Children Living in Poverty: Technical note', UNICEF Data, New York, December 2021.

10 International Labour Organization and United Nations Children's Fund, 'Child Labour: Global estimates 2020, trends and the road forward – Executive summary', ILO and UNICEF, Geneva and New York, June 2021, pp. 5, 3.

11 Chancel, Lucas, et al., 'World Inequality Report 2022: Summary', World Inequality Lab, Paris, 2021, p. 11. See also: Piketty, Thomas, Capital in the Twenty-First Century, Harvard University Press, Cambridge, Mass., 2014.

12 See: World Meteorological Organization, 'United in Science 2022', WMO, Geneva, 2022.

13 International Panel on Climate Change, 'Summary for Policymakers', Climate Change 2022: Impacts, adaptation, and vulnerability, Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, IPCC, 2022, p. 29.

14 United Nations, Our Common Future: Report of the World Commission on Environment and Development, 1987.

However, overall progress towards achieving the SDGs is off track. As described in the United Nations 2022 report charting progress on the SDGs, the impacts of armed conflict in Ukraine and many other countries, the COVID-19 pandemic and the climate crisis are combining to place the viability of achieving the SDGs by 2030 at great risk.[15]

In the current challenging economic and business environment there may be some temptation to abandon regulation or economic and business policies and practices framed by responsible conduct – at least temporarily – in the name of cost-cutting, the post-pandemic economic recovery, and the economic challenges arising from conflict. But there is ample evidence that responsible business conduct is good for business performance.[16] And even more importantly, the challenges the world faces highlight the need for much greater commitment, collaboration, public-private partnership and consistent action to promote sustainability.

A just transition towards more equitable and sustainable development may be hard to achieve, but the only realistic option for all of us – government, the private sector and civil society – is committing to decisive steps and stronger action towards creating a regenerative economy.

"Respect for human rights, including the rights of children, is the precondition for true sustainability."

– Catherine Russell, Executive Director UNICEF, UN Global Compact Leaders Summit, 1 June 2022

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15 United Nations, 'The Sustainable Development Goals Report 2022', United Nations, New York, July 2022.

16 See, for example: Whelan, Tensie, and Carly Fink, 'The Comprehensive Business Case for Sustainability', Harvard Business Review, 21 October 2016; Henisz, Witold, Tim Koller and Robin Nuttall, 'Five Ways that ESG Creates Value', McKinsey Quarterly, 14 November 2019.

1.3 Respect for human rights: Central to business purpose and a condition for sustainability

Purposeful business is a necessary and welcome feature of our times, with the potential to contribute to social and environmental solutions at scale. Unless business plays a big role, the Paris Climate Agreement targets and the SDGs will not be achieved, and they both provide a rallying point and a focus for business contribution to social and environmental solutions.[17]

Many companies report they are directing core business and social investments towards achieving the SDGs, which is important and necessary. But positive investment in one area cannot offset harm done elsewhere. The foundation of authentic and effective responsible business conduct is preventing and mitigating adverse impacts and remediating them when they take place. This is the essence of the "protect, respect and remedy" framework operationalized by the UNGPs, which map out the government duty to protect human rights, including from abuses by third parties such as businesses, and the responsibility of businesses to respect human rights in their policies, practices and relationships.

Renewed recognition of the centrality of respect for human rights to achieving sustainability is another vital development of the past decade. Preventing and addressing adverse impacts on people and the planet is the most significant contribution to sustainable development that most businesses can make.[18] And the UNGPs have grown in influence since their launch in 2011, providing the authoritative framework and a key tool for governments and businesses to prioritize respect for people and the environment.[19]

Protecting and respecting children's rights is particularly significant because this breaks the intergenerational transfer of deprivation and exclusion. In the words of Sanda Ojiambo, Assistant Secretary-General; Executive Director & CEO of the UN Global Compact, "Unless children's rights and children's voices are incorporated into global sustainability efforts, they will fall flat."[20]

Companies that claim to be purposeful but do not address their own conduct cause cynicism and lack of trust in business motivation and undermine their own reputation and that of more committed peers. They also risk undermining effective global cooperation on the necessary scale, to the detriment of children, society, global business and their own enterprises.

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17 Business & Sustainable Development Commission, Better Business Better World, London, January 2017.

18 UN Working Group on Business and Human Rights, 'Guiding Principles on Business and Human Rights at 10: Taking stock of the first decade', Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/47/39, United Nations, 22 April 2021.

19 Ibid.

20 Sanda Ojiambo, UN Global Compact Leaders Summit, Session on Business action to advance children's rights, 1 June 2022.

1.4 Five key messages

Imagine a world in which businesses routinely discharge their responsibility to respect the human rights of children and governments take action to ensure that this happens. Given the pervasive nature of business activity, this would be a world transformed. The deprivations and human rights challenges that are the focus of governments and international development would be significantly reduced. This is not to suggest that business is responsible for all of these challenges, but the business contribution would have changed the environment dramatically, reducing the scale and scope of deprivation and abuse and making them easier to address.

As it stands, this is a distant dream. Some may even consider it naive. But just because something is a long-term project does not mean that it is not worth pursuing by governments, businesses and development practitioners aiming for sustainable development.

Charting the Course offers five key messages on making this vision a reality:

1. *Businesses impact on children through their activities and relationships in myriad ways, and it is crucial that these are recognized, prevented and remediated.* Child labour tends to be the assumed main impact, but a sole focus on child labour, especially one that is primarily based on risk to reputation and compliance, leads to business action on children's rights that is incomplete and inadequate.
2. *If children's rights are not visible they will be missing from both government and business action for responsible business conduct*. This would mean children continue to be at risk, as businesses fail to identify their salient impacts – the effects on children's rights that stand out for their severity and likelihood. Business efforts to be responsible would be incomplete, and the huge contribution responsible business conduct can make to improving children's lives and supporting sustainable development would not be fully realized.
3. *Government and business mechanisms aimed to require or implement responsible business conduct will not work for children unless their rights and needs are designed in from the very start as a standard requirement.* This also applies to the rights of other groups at risk of marginalization and exclusion. Leaving children invisible means risking leaving out 30% of the world's population. That is not just an oversight. In the context of the challenge of global sustainability, it is negligent.
4. *Business human rights and environmental due diligence is the core tool for linking business to sustainable development in ways that are lasting, systematic, and hold the potential for scale over time.* If the SDGs are to be achieved, business must play a core role, but companies seeking to contribute should start with initiatives that are part of preventing or mitigating risks and impacts to children connected with their business, and then look at contributions that are not connected.
5. *Governments and businesses need to be pulling together to achieve the challenging goal of ending child labour, and this coordinated effort needs to be strengthened.* Notwithstanding that other adverse impacts on children's rights are often unrecognized, child labour remains a serious violation and governments and businesses need to be strengthening their combined action to achieve the challenging goal of ending it.

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CHAPTER 2: THE CHANGING BUSINESS LANDSCAPE IN RESPONSE TO HUMAN RIGHTS AND SUSTAINABILITY

The message from forward-looking companies has changed profoundly since 1970, when Milton Friedman asserted that the only social responsibility of business is to increase profits.[21] Today, businesses and governments recognize the importance of corporate action to achieving the SDGs and the Paris Climate Agreement targets.

There are significant opportunities for profit, but there is more to it than this. The climate crisis, rising inequality and the pandemic experience are forcing attention on fundamental questions:

- What kind of world do we want to live in?
- What kind of world is going to be possible if short-term profits and value extraction are the dominant touchstones of economic and business success?

Chapter 2 sets the context for the discussion on child rights and business by providing a basic outline of contemporary developments in human rights-based responsible business conduct.

2.1 Evolutions in responsible business conduct

Responsible business conduct has evolved dramatically as "old-style" corporate social responsibility (CSR) is giving way to practices that are more fully embedded in core business operations. Many companies are seizing opportunities to apply business solutions to social and environmental problems. For example, "creating shared value"[22] – the concept of business policies and operating procedures that enhance the competitiveness of a company while simultaneously advancing social and economic conditions in the communities in which they operate – is receiving attention in many boardrooms.

CSR that focuses on donations to good causes or community-level projects has often been criticized as lacking ambition and being primarily about reputation and public relations. The shared-value approach is sometimes questioned because it does not focus on a company's most salient human rights impacts unless there is a profit to be made. Nevertheless, mobilizing core business objectives to achieve social outcomes potentially offers an important range of innovations and solutions to development challenges.

The increasing use of environmental, social and governance (ESG) frameworks by investors in support of responsible and sustainable investment, and the use of stewardship activities to improve the environmental and human rights performance of investee companies are reflecting and supporting the trend towards responsible business conduct. This also supports investment strategies that recognize the interests of communities, workers, suppliers, customers and the environment alongside shareholders.

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21 Friedman, Milton, 'A Friedman Doctrine: The social responsibility of business is to increase its profits', New York Times, 13 September 1970.

22 orter, Michael E., and Mark R. Kramer, 'Creating Shared Value: How to reinvent capitalism – and unleash a wave of innovation and growth', Harvard Business Review, January–February 2011.

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While ESG uptake has largely been driven by the environmental factor, **social reporting is a growing feature**, although there is a long way to go. The definition of "social" is often unclear and there are multiple challenges in measurement. Moreover, there is a tendency towards identifying human rights as one of many unrelated dimensions, rather than as a framework that should inform all understanding of social impact.

Significantly, in many jurisdictions sustainability reporting measures are becoming more common and there is a steady trend towards mandatory measures. The Global Reporting Initiative, for example, found 180 standards and laws recommending sustainability disclosure in its most recent review of 45 countries, in 2013. Of these measures, 72% were mandatory – compared to 56% in the 2006 review of 19 countries.[23] Another important example is the 2014 EU Non-Financial Reporting Directive, which introduced mandatory reporting on environmental, human rights and other issues for large companies operating in the European Union.

The EU taxonomy regulation establishing a framework to facilitate sustainable investment has a minimum safeguard clause that requires companies to be in compliance with the UNGPs and the Guidelines for Multinational Enterprises (MNEs), issued by the Organisation for Economic Co-operation (OECD).[24]

The increasing use of environmental, social and governance frameworks by investors in support of responsible and sustainable investment and the use of stewardship activities to improve the environmental and human rights performance of investee companies are reflecting and supporting the trend towards responsible business conduct.

23 Global Reporting Initiative, et al., 'Carrots and Sticks: Sustainability reporting policies worldwide – Today's best practice, tomorrow's trends', KPMG Advisory N.V., Global Reporting Initiative and Centre for Corporate Governance in Africa, 2013, p. 8.

24 Regulation (EU) 2020/852 (Taxonomy) on the establishment of a framework to facilitate sustainable investment, art. 3, 18.

While European countries are among those most active in demanding social disclosure, the trend has been taken up in other regions:

- Section 1502 of the Dodd Frank Act requires due diligence on conflict minerals coming from the Democratic Republic of the Congo via companies that are publicly listed in the United States;[25]
- The Australian Modern Slavery Act (2018) requires annual disclosure on contemporary forms of slavery;[26]
- India has a requirement for mandatory CSR expenditure and disclosure under Section 135 of the Companies Act;[27] and
- Since 2008, China's nationally influential State-owned Assets Supervision and Administration Commission has recommended that state-owned enterprises disclose their CSR activities.[28]

Action to improve social outcomes for people has nonetheless remained largely a matter of business choice. And while disclosure is an important step towards responsible business conduct, a key issue is ensuring that it is founded on the robust implementation of human rights and environmental due diligence.

2.2 The human rights framework raises the bar

Until 2011 and the development of the UN Guiding Principles on Business and Human Rights, there was little clarity on accountability or business responsibility for addressing adverse impacts on people. The UNGPs provide a human rights framework that promotes civil and criminal accountability by:

- Pointing out the duty of the State in protecting human rights in the context of business activities; and
- Bringing attention to the business responsibility to respect human rights independently of States' abilities or willingness to fulfil their human rights obligations; and
- Emphasizing that both state duties and business responsibilities involve preventing, mitigating and remediating adverse impacts on people.

In light of this guidance, it becomes clear that **any approach to mobilizing the power, reach and influence of business should account for both business responsibilities and the fundamental duties of government.**

Although the UNGPs are based on core principles of international human rights law and are endorsed by the UN Human Rights Council, they are not legally binding or a universal panacea. As things stand, human rights-based responsible business conduct is more developed in some parts of the world than in others.[29]

However, the UNGPs bring clarity to the standard of conduct expected of all companies and establish the centrality of stakeholder engagement through the human rights due diligence process via three pillars for action:

1. *States have the duty to "protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises"* – in other words, governments have the primary duty to protect human rights, including when abuses result from business activities.

25 Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

26 Australian Government, Department of Home Affairs, Modern Slavery Act 2018.

27 See: Ministry of Corporate Affairs, 'Acts & Rules', Government of India.

28 Reporting Exchange, 'An Overview of Sustainability and Corporate Reporting in China', Climate Disclosure Standards Board, 2018, p. 7.

29 For a detailed discussion of the status quo and other issues discussed in this section, see: UN Working Group on Business and Human Rights, 'Guiding Principles on Business and Human Rights at 10: Taking stock of the first decade', A/HRC/47/39, United Nations, 22 April 2021.

2. *It is expected that businesses will adopt due diligence measures to identify and manage the risks that their activities, operations or business relationships may pose to human rights.* And the scope of responsibility extends up and down the value chain. This also demands and propels business due diligence focused on risks to people rather than only risks to business and it articulates the business responsibility to provide or cooperate in remediation.
3. *Remediation places accountability for adverse business impacts at the heart of responsible conduct.* The need for access to remedy for those harmed is clearly defined in the UNGPs, with implications for governments, companies, multi-stakeholder initiatives and others who establish and implement grievance mechanisms. States have an obligation to ensure that affected stakeholders have access to effective remedy through government-based mechanisms and by facilitating access to non-governmental mechanisms – and companies have the responsibility to establish or participate in effective operational-level grievance mechanisms.

The UNGPs are complemented by the OECD's MNE Guidelines and its Due Diligence Guidance for Responsible Business Conduct[30] These are increasingly being incorporated into other influential standards and frameworks for responsible business conduct, including, for example, the ILO's revised 2017 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy,[31] the ISO 26000 standard on social responsibility,[32] and the revised Global Reporting Initiative's (GRI) Universal Standards launched in October 2021.[33]

2.2.1 Human rights due diligence is a central mechanism

Human rights due diligence is a core feature of the UNGPs. Every business should undertake due diligence in order to identify and manage the actual or potential human rights risks and impacts that its activities or business relationships could cause, contribute to, or be linked to. This requires policies and processes aimed at the implementation of risk management measures.

As well-described in OECD's guidance on responsible business conduct for institutional investors:

> Due diligence is an on-going, proactive and reactive, and process-oriented activity; it is to be carried out throughout the entire life-cycle of operations, products and services because circumstances change and so will adverse impacts. This means that due diligence should not be limited to an initial investigation of a potential business relationship or transaction, but should also be applied proactively through establishment of systematic measures to identify RBC [responsible business conduct] risk and prevent or mitigate potential adverse impacts, as well as through on-going monitoring of business relationships and related operations.34

Due diligence is increasingly being incorporated in legislation at national and regional levels. Considering this and the parallels with existing legal regimes, including legal concepts such as a duty of care or a duty to prevent harm to third parties, it is a standard of conduct that can serve to determine corporate liability for human rights impacts when adequate preventive measures are not taken.[35]

In its report marking the 10th anniversary of the UNGPs, the UN Working Group on Business and Human Rights describes multiple general issues at stake for due diligence. This includes highly relevant subjects, such as the expectations regarding companies of different sizes, the reach of due diligence into the supply chain, the degree of coherence between due diligence and sustainability reporting (and other policy areas), the centrality given to saliency, the range of remedial measures companies implement and much more.[36]

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30 Organisation for Economic Co-operation and Development, 'Guidelines for Multinational Enterprises' (2011) and 'Due Diligence Guidance for Responsible Business Conduct' (2018).

31 International Labour Organization, 'Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy', 5th edition, ILO, March 2017.

32 International Organization for Standardization, 'ISO 26000 and OECD Guidelines: Practical overview of the linkages', ILO, Geneva, 7 February 2017.

33 Global Reporting Initiative, 'Universal Standards'.

34 Organisation for Economic Co-operation and Development, 'Responsible Business Conduct for Institutional Investors', OECD, 2017, p. 16.

35 United Nations High Commissioner for Human Rights, 'Improving Accountability and Access to Remedy for Victims of Business-related Human Rights Abuse: The relevance of human rights due diligence to determinations of corporate liability', A/HRC/38/20/Add.2, Human Rights Council, 1 June 2018, paras. 19–24, 32–34.

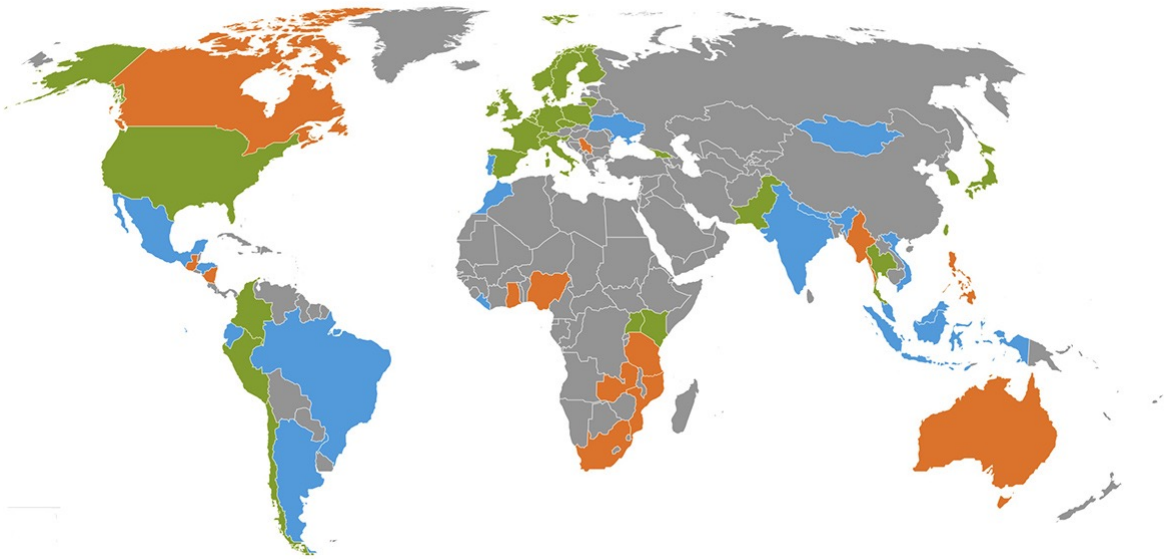
36 UN Working Group on Business and Human Rights, 'Guiding Principles on Business and Human Rights at 10: Taking stock of the first decade', A/HRC/47/39, United Nations, 22 April 2021.

2.2.2 Increasing state action, including regulatory approaches to due diligence

The UNGPs have set in motion a new focus by governments on responsible business conduct. As of May 2022, for example, 30 countries from around the world had developed National Action Plans (NAPs) on business and human rights that embrace both States' duties and the private sector's responsibilities.

NAPs on business and human rights set out policy strategies that address impacts and the measures to provide remedy. In principle, these plans offer an opportunity to identify priorities and what needs to be done to bring about policy coherence around implementation of the UNGPs. The entire NAP process, including development, monitoring and updates, is explicitly intended to be "inclusive and transparent," inviting multiple stakeholders to participate: representatives of groups that might be particularly exposed to business-related human rights abuse, such as children, women, indigenous peoples, ethnic minorities and persons with disabilities, as well as national human rights institutions, business representatives, trade unions and civil society organizations.[37] However, progress in NAP implementation has often been slow.

Implementation of National Action Plans on Business and Human Rights



Key:

Published a NAP | Developing a NAP | Other non-state initiatives

Source: National Actions Plans on Business and Human Rights, Danish Institute for Human Rights, acessed 11 October 2022.

37 UN Working Group on Business and Human Rights, 'Guidance on National Action Plans on Business and Human Rights', United Nations, Geneva, November 2016, pp. 1, 4.

In a small number of jurisdictions, policy and legislation addressing corporate human rights conduct with transnational reach is in development or has been adopted, for example:

- In the United Kingdom (2015)[38] and Australia (2018)[39] the focus is on legislation requiring reporting of action on contemporary forms of slavery, including in supply chains, although these laws do not require companies to carry out due diligence.
- Laws in France (2017),[40] Norway (2021)[41], Germany (2021)[42] and Switzerland (2022)[43] require human rights due diligence (or elements thereof).
- In 2022, Japan published human rights due diligence guidelines, which note that "under the UN Guiding Principles, business enterprises that engage in business activities in Japan must pay attention to the adverse human rights impacts by their business enterprise, group companies, and within their supply chains, etc., not only in Japan but also around the world."[44]

Some early examples of legislation that addresses companies' impacts on human rights and is focused on specific issues include those introduced by the United States[45] and the European Union[46] on conflict minerals and timber. More recently, it seems that there is **a trend towards addressing a wider spectrum of human rights and business activities and to design a mix of different measures while ensuring policy coherence.**

The proposed Directive on Corporate Sustainability Due Diligence in the European Union has the potential to represent the most ambitious human rights due diligence regime so far with its broad scope and the provision of a civil liability regime and administrative sanctions.[47] The draft Directive is part of a comprehensive package of EU legislative initiatives that seek to address the adverse impacts that businesses can have on the environment and the enjoyment of human rights. Along with trade rules and a proposed ban on products made with forced labour in the EU market,[48] these include initiatives on corporate sustainability reporting,[49] sustainable finance disclosure obligations,[50] and the previously mentioned EU taxonomy on sustainable economic activities.[51]

The proposed legislative framework that the European Union is building relies on the interconnectedness of the different initiatives already in force and currently under development. For example, the draft Directive on Corporate Sustainability Due Diligence would require certain EU and non-EU companies to conduct human rights and environmental due diligence. At the same time, the draft European Sustainability Reporting Standards that are set to operationalize the Corporate Sustainability Reporting Directive, would also require one of the steps of human rights due diligence, that is to publicly report on the due diligence processes implemented with regard to sustainability.

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38 Legislation.gov.uk, 'Modern Slavery Act 2015: Explanatory Notes'.

39 Legislation.gov.au, 'Modern Slavery Act 2018'.

40 LOI n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre (Law No. 2017-399 of 27 March 2017 on the corporate duty of vigilance for parent and instructing companies).

41 Ministry of Children and Families, Norway, Act relating to enterprises' transparency and work on fundamental human ights and decent working conditions (Transparency Act), 2021, unofficial translation.

42 Supply Chain Due Diligence Act (Germany), 2021.

43 Ordinance on Conflict Minerals and Child Labour (Switzerland), 2022.

44 Ministry of Economy, Trade and Industry, Japan, 'Guidelines on Respecting Human Rights in Responsible Supply Chains', Provisional English Translation for Information Only, September 2022, p. 2.

45 Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

46 Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (Conflict Minerals Regulation); Regulation (EU) No 995/2020 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (Timber Regulation).

47 Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022)71 final.

48 Proposal for a Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union Market, COM(2022) 453.

49 Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting.

50 Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector.

51 European Commission, 'Overview of Sustainable Finance'.

The Netherlands is an example of a country building on its NAP development to create multi-stakeholder collaboration. The government-led Dutch responsible business conduct agreements are a series of time-bound covenants that cover 11 business sectors, including banks, pension funds and insurance. The agreements promote action to align with the UNGPs and the OECD MNE Guidelines, including SMEs as well as large companies.[52]

The strength of this approach lies in bringing together a variety of stakeholders. The agreements engage sector associations and/or companies, non-governmental organizations, unions and ministries of the Dutch Government as "signatory parties" (there are no stakeholders from producing countries). An evaluation published in 2020 found that they have raised awareness about due diligence and have facilitated company compliance through support infrastructure, monitoring and assessment. However, the evaluation was not able to identify an overall reduction in negative impacts in global value chains as a result of the RBC agreements.53

With the adoption of Child Labour Due Diligence legislation in 2019, the Netherlands added mandatory measures to the mix. However, this law has not come into force and it has been announced that it will be replaced by wider mandatory human rights and environmental due diligence based on the EU legislation under preparation.

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52 See: Government of the Netherlands, 'Responsible Business Conduct (RBC) Agreements'.

53 Bitzer, Verena, et al., Evaluation of the Dutch RBC Agreements 2014–2020: Are voluntary multi-stakeholder approaches to responsible business conduct effective?, KIT Royal Tropical Institute, Amsterdam, 8 July 2020, pp. 27, 8.

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2.3 Upholding human rights creates the conditions for sustainability

Human rights are a key dimension of the path to a genuinely sustainable world. But current business practice and implementation for sustainable development and for human rights are not yet fully coordinated, coherent and integrated.

Addressing and preventing risks and actual adverse impacts on people is the human rights link between responsible business conduct and sustainable development.[54] In this regard, EU processes demonstrate a highly significant trend: **Business environmental and human rights due diligence are both being recognized as integral to sustainable development.**

That the climate crisis is one of the biggest threats to human rights is now well understood. Calls to frame sustainability through the lens of equity and social justice are not new. Indeed, 35 years ago the Brundtland Report was clear that the human and environmental aspects of sustainability go hand in hand.[55] Failure to tackle poverty and inequality will prevent success in achieving climate goals.[56]

The negative impacts of climate change are disproportionately borne by individuals and communities already in disadvantageous situations due to geography, poverty, gender, age, disability, cultural or ethnic background.[57] In July 2022, the United Nations General Assembly adopted a resolution recognizing for the first time that "everyone, everywhere, has a right to live in a clean, healthy and sustainable environment."[58]

The UN Working Group on Business and Human Rights has pointed out that "the due diligence standard and the accountability focus of the UNGPs make them a valuable framework for practical achievement of a just transition to a green economy." They also provide governments and businesses with a blueprint for responsible recovery from the COVID-19 crisis.[59]

54 See also: Office of the High Commissioner for Human Rights, 'Advancing Sustainable Development through Human Rights', United Nations.

55 United Nations, Our Common Future, 1987.

56 See: Rees, Caroline, 'Transforming How Business Impacts People: Unlocking the collective power of five distinct narratives', CSR Initiative, Harvard Kennedy School, Cambridge Mass., October 2020.

57 Resolution adopted by the Human Rights Council on 12 July 2019: Human rights and climate change, A/HRC/RES/41/21; Office of the High Commissioner for Human Rights, 'The Impacts of Climate Change on the Effective Enjoyment of Human Rights', United Nations.

58 Resolution adopted by the United Nations General Assembly on 26 July 2022: The human right to a clean, healthy and sustainable environment, A/76/L.75.

59 UN Working Group on Business and Human Rights, 'Guiding Principles on Business and Human Rights at 10: Taking stock of the first decade', A/HRC/47/39, United Nations, 22 April 2021, para. 52.

While the "E" and the "S" of ESG cannot be collapsed into each other, they are interrelated, with the "S" facilitating the integration of a human rights lens into climate and environmental action, especially by investors. **Both the social and environmental dimensions are essential aspects of sustainable development.**

This understanding informs action by the World Business Council for Sustainable Development (WBCSD), for example, which sets an ambition to reach net zero greenhouse gas emissions no later than 2050 and supports the UNGPs as membership criteria.[60] B Corp Climate Collective speaks of advancing climate solutions that link human rights and development in a human-centred approach, placing the needs, voices and leadership of those who are most impacted at the forefront.[61]

Human rights are a key dimension of the path to a genuinely sustainable world. But current business practice and implementation for sustainable development and for human rights are not yet fully coordinated, coherent and integrated. For example, the need for business (and government) to address adverse business impacts on people have largely been absent from business responses to the SDGs.[62]

The World Benchmarking Alliance Just Transition Benchmark 2021 found that the vast majority of high-emitting companies were not making any connection between their environmental and social risks, leading it to conclude that companies were still considering and addressing the social risks and plans for a low-carbon transition independently from human rights issues.[63]

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60 World Business Council on Sustainable Development, 'WBCSD Membership Conditions', 2021.

61 B Corp Climate Collective, 'What Is Climate Justice?', 2021.

62 UN Working Group on Business and Human Rights, 'Taking stock of the first decade', A/HRC/47/39, United Nations, 22 April 2021, paras. 5–6.

63 World Benchmarking Alliance, '2021 Just Transition Assessment', WBA, Amsterdam, 1 November 2021.

Other worrying gaps in implementation include a significant disconnect between business human rights commitments and processes and actual performance and results. Many companies (often larger businesses) have been putting policies in place to align with the UNGPs, but a much smaller proportion are translating these into fundamental processes such as human rights due diligence.[64] The barriers to SMEs carrying out due diligence, often relate, for example, to lack of capacity and knowledge. Yet SMEs make up the vast majority of business enterprises and employ around two-thirds of the global work force.[65]

But the business world of today is not as it was 20 or even 10 years ago. **Serious conversations around business responsibilities are now becoming more mainstream among investors, in the boardroom and at the highest levels of government.** Human rights and environmental issues are not soapbox fodder, they represent a sober consideration of human well-being and survival, particularly when it comes to climate and especially for the most vulnerable.

Alongside the contribution to generating economic growth or to technical solutions to environmental and social challenges, the adverse impacts of business activity on both the environment and society must be addressed for sustainability, including financial sustainability. It should be intrinsic to the business contribution to achieving the SDGs. And this requires complementary action and cooperation involving government, business and civil society.

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64 World Benchmarking Alliance, 'Corporate Human Rights Benchmark: 2020 Key findings', WBA, Amsterdam, 2020, p. 9.

65 International Labour Organization, 'The Power of Small: Unlocking the potential of SMEs', ILO, October 2019.

2.4 Children's visibility in key frameworks

As the High Commissioner for Human Rights said in her opening statement to the 50th session of the Human Rights Council, "We cannot fix what we cannot see."[66] If the right questions are not asked, the issues will not be identified. The pertinent question here is: How visibly integrated are children's rights beyond child labour in the wider context of evolving responsible business conduct?

The UNGPs barely mention children, although the 'General Principles' do call for implementation that is non-discriminatory and addresses the rights, needs and challenges of "individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized," which would, of course, include children. The commentary on 'Operational Principles' notes that guidance for business enterprises on respecting human rights should recognize "the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families."[67] In the context of business activities and relationships, informal workers should also be on this list.

In regard to the responsibility of business enterprises to respect human rights, the UNGPs (para. 12) refer to "internationally recognized human rights – understood, **at a minimum** [our emphasis], as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International

Labour Organization's Declaration on Fundamental Principles and Rights at Work."

The Convention of the Rights of the Child, globally the most ratified international human rights treaty, and ILO Conventions No. 138 (minimum age for admission to any type of employment or work) and No. 182 (eliminating the worst forms of child labour) provide the foundation for decisions and actions relating to business activities and operations to accord with children's rights. The **Convention on the Rights of the Child has four key principles** that underpin all its articles, all of which should be applied to inform business respect for children's rights:

4. the right to non-discrimination;
5. the best interests of the child;
6. the right to life, survival and development; and
7. the right of the child to be heard.

In comprehensive guidance interpreting how human rights standards relate to business, such as the UNGPs, or in crucial advice such as the OECD Due Diligence Guidance for Responsible Business Conduct, it would be cumbersome and potentially confusing to attempt to define all the specific rights challenges faced by children and others who are at risk of being marginalized.

But nothing in these frameworks prevents the integration of children's rights when implementing the UNGPs. The disconnect appears to be due to lack of understanding of potential business impacts on children on the part of regulators and companies. Factors that have significant adverse impacts tend to be overlooked and integration of anything beyond child labour is often omitted.

This dilemma also appears during the implementation of other mechanisms or frameworks that aim to support responsible business conduct. ESG is an example, as child labour tends to be identified as the sole children's issue for business in reporting standards and impact assessment. (*Chapter 5 of this report discusses how to address this gap in the design of mechanisms and processes.*)

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66 Michelle Bachelet, High Commissioner for Human Rights, Opening Statement 50th session of the Human Rights Council, Geneva, 13 June 2022.

67 Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights', OHCHR, New York and Geneva, 2011, pp. 1, 5–6.

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CHAPTER 3: THE RANGE AND DIVERSITY OF ADVERSE BUSINESS IMPACTS ON CHILDREN'S RIGHTS

Virtually every aspect of business activity can have an impact on the rights defined in the UN Convention of the Rights of the Child and its optional protocols, and ILO Conventions No. 138 and No. 182.

Marketing and advertising, the nature and development of products or services, collection of data, disposal of waste or obsolete products, working terms and conditions, workplace safety and security, land acquisition and use, impact on the environment and community and even investment practices can all have impacts on children. The entire value chain is potentially implicated. So too are digital business activities.

Informal work is a major risk factor in adverse business impacts. Children can be at particular risk from business activities that take place outside of the legal and institutional frameworks that regulate working condition and protect human rights, whether directly or through impacts on adults. Informal work often involves precarious employment status, poor or even no payment, health risks, lack of social security, long hours, limited freedom of association, and poor protection from discrimination, violence and exploitation.[68]

Virtually every aspect of business activity can have an impact on the rights defined in the Convention of the Rights of the Child and ILO Conventions No. 138 and No. 182. These conventions have helped to bring children's rights into view, encouraging more widespread acknowledgement of their central and vital place in the business ecosystem.

The most salient business impacts on children will, of course, vary according to situation, company and sector. But there should be no assumption that "well-known" issues are the last word in business impact or that due diligence on one issue covers children's rights adequately. Neither should the industry sector or the primary business "identity" of a company limit how impacts on children are identified and addressed in policy and practice. Food and beverage companies, for example, are not just producers and marketers of products that may be high in sugars and fats. They are also employers of workers with children. Companies that develop and market high-end electrical goods or batteries to support the move to low-carbon technologies may be linked to the use of child labour in rare earth extraction. No company has a single "identity" when it comes to potential adverse impacts on children.

The reality is that children are a very significant set of business stakeholders. They are consumers, family members of employees, members of communities impacted by business, young workers, and future employees and business leaders.

The purpose of Chapter 3 is to highlight the sheer diversity of business adverse impacts on children involving a wide variety of business practices. Most of these impacts are less extensively researched and less well-known than child labour.

While framed around the structure of the CRBPs, this chapter does not cover every principle. This should not be taken to indicate that a "missing" principle is not equally important to those that are discussed. Neither should each section be seen as the "definitive" statement on the range of impacts on children. There are innumerable issues that deserve additional discussion, which *Charting the Course* aims to inspire.

68 Committee on the Rights of the Child, General comment No. 16 (2013), para. 35.

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The chapter starts with a discussion of why business impact on children should be explicitly identified and cannot simply be assumed or extrapolated from the situation of adults. It ends with a focus on the digital environment, which has emerged with ever-increasing importance to the social fabric and the lives of children over the past decade, and which arguably received insufficient focus in the CRBPs as drafted in 2011.

3.1 Children: Emerging identities and capacities at risk of being undermined and marginalized

Children's voices and views count, but it is easy for them to be overlooked or disregarded. In the context of business operations and practices children are insufficiently seen and even less heard.

Children are totally dependent on others at birth and well beyond, becoming progressively more independent as they get older. This may seem to be a truism, but the implication for respecting children's rights is immense. Children are extraordinarily diverse on account of age and growth as well as gender, culture, society, neurodiversity and disability. This is a key fact about childhood and children's rights.

Childhood is a time of physical, emotional, psychological and social development. Infants and adolescents both have rights, but their situation and how their rights are realized differ and change over time. To a significant degree, boys and girls experience the abuse of their rights in different ways. Furthermore, children's experience of the realization of their rights, especially that of younger children, can significantly differ from that of adults.

What happens in childhood can have a lifelong impact, preventing or enabling children from reaching their full potential. Lack of nurturing care in early childhood – which includes adequate nutrition, stimulation, love and protection from stress and violence – can impede brain development.[69]

We all have the right to be free from abuse, bullying or exploitation, but abuse, exploitation and other adverse experiences in childhood can have formative impacts on health and well-being. Lasting impact can mean that the effects of deprivation and abuse are transferred across generations.

69 See, for example: The Lancet, 'Advancing Early Childhood Development: From science to scale', Early Childhood Development Series, 4 October 2016.

And adults have power, influence and authority over children in ways that mean children can be at particular risk of the abuse of power. Children's voices and views count, but it is easy for them to be overlooked or disregarded. In the context of business operations and practices children are insufficiently seen and even less heard.

Child dependence on parents and caregivers introduces another fundamentally important aspect of children's rights: that abuse of the rights of adults can have an indirect but significant impact on children. This is of tangible relevance to business.

Translating this into children's rights and business, business conduct can have indirect as well as direct impacts on children. A business may be implicated in child labour, for example, by employing children. But it may also be implicated by working terms and conditions for parents and other caregivers that take advantage and reinforce the conditions of poverty in which children or their families may be living. In short, how business treats adults with family responsibilities also significantly affects children.

3.2 Respecting and supporting children's rights

All businesses should meet their responsibility to respect children's rights and commit to supporting the human rights of children (Children's Rights and Business Principle 1)[70]

Principle 1 informs the implementation of all the other principles.

The "responsibility to respect" is the fundamental element for businesses taking a child rights-based approach. It encompasses making a *policy commitment* approved at the most senior level. It requires *human rights due diligence* that covers any adverse impact to children to which the business may cause or contribute through its own activities, or which may be directly linked to its operations, products or services by a business relationship. And it involves ensuring *effective child-sensitive remediation* through legitimate processes, including operational grievance mechanisms or judicial mechanisms.

Principle 1 also introduces another important concept: that businesses should "commit to support" the human rights of children. This is not a legal obligation, but a statement of moral purpose.

The "commitment to support" should be understood as premised on implementation that honours the responsibility to respect children's rights. A positive contribution in one area is undermined if adverse impacts elsewhere are not being addressed. A business that provides assets, resources or services that help improve children's lives but does not implement due diligence and remediation in relation to its own conduct or that of parties in its value chain is not fulfilling its human rights responsibilities and cannot claim to be following a rights-based approach.

This commitment also serves as a tool to support rights-based prioritization in company engagement on children's issues. **Addressing adverse impact at its best and most constructive translates adverse impacts into positive impacts.** For example, a business that identifies the production and marketing of foods that tend to cause obesity as a salient adverse impact should stop producing and marketing such products – and it may also choose to substitute them with healthy product lines, new forms of marketing and support for healthy lifestyles. Another example would be a business that has taken action to respect children's rights and seeks to share insights and lessons learned with its peers to support change in their practices.

70 Principle 1: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 14–15.

3.3 Elimination of child labour

All businesses should contribute towards the elimination of child labour, including in all business activities and relationships (Children's Rights and Business Principle 2)[71]

Decades – even centuries in older industrialized countries – of action and activism by civil society, governments and the business community have lodged child labour in popular and political awareness as the most obvious way in which business practices can have adverse impacts on children.

Child labour remains a serious abuse of child rights and is a barrier to the fulfilment of multiple other rights, placing children at risk of physical and mental harm, compromising their education and limiting their future opportunities.

The worst forms of child labour, banned by ILO Convention No. 182, include work that is hazardous, takes place at night or unreasonably confines the worker to the employer's premises. It includes work at dangerous heights, in confined spaces, underground or with dangerous machines, equipment or tools; work that involves exposure to hazardous substances, agents or processes, or to temperatures, noise levels or vibrations damaging to health. "Hidden" work situations carry particular risks for children, especially for girls.[72]

Joint estimates by the ILO and UNICEF indicate that global progress to end child labour has stagnated for the first time in two decades, made even worse by significant reversals associated with the COVID-19 pandemic. Though the percentage of children in child labour stayed the same, the absolute number increased by more than 8 million between 2016 and 2020. Unless new mitigation measures are taken, the number of children aged 5–17 in child labour could rise from 160 million in 2020 to 168.9 million by the end of 2022.[73]

At the start of 2020, the ILO-UNICEF estimates found that 160 million children – 63 million girls and 97 million boys worldwide – were engaged in child labour. Regionally, sub-Saharan Africa had more child labourers than the rest of the world combined, though progress to curtail child labour continued in Asia and the Pacific and in Latin America and the Caribbean where trends moved downward in both absolute numbers and percentages.[74]

Child labour remains a serious abuse of child rights and is a barrier to the fulfilment of multiple other rights, placing children at risk of physical and mental harm, compromising their education and limiting their future opportunities.

Seventy per cent of child labour occurs in agriculture, 19.7% in services and 10.3% in industry. Although most children work within their own family, the conditions are frequently hazardous, directly jeopardizing their health, safety and moral development. Around 79 million children were engaged in hazardous work at the beginning of 2020; though the percentage of children in hazardous work was nearly unchanged since 2016, the absolute numbers increased by 6.5 million.[75]

Poverty is a major driver of child labour, alongside complex, interrelated factors such as labour informality, poor working terms and conditions, migration or displacement, social norms, presence of violence and abuse, gender discrimination, inadequate social protection and exclusion from education.

Most child labour occurs in production linked to domestic production and consumption, and in small family-run businesses, but it is also widespread in global supply chains and is an integral part of business processes for bringing goods and products to the market. Although the prevalence of child labour is highest in sub-Saharan Africa, over half of all child labour occurs in middle-income countries.[76]

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71 Principle 2: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 18–19.

72 International Labour Organization, R190 – Worst Forms of Child Labour Recommendation, 1999 (No. 190).

73 International Labour Organization and United Nations Children's Fund, 'Child Labour: Global estimates 2020, trends and the road forward – Executive summary', ILO and UNICEF, Geneva and New York, June 2021, pp. 5, 3.

74 Ibid.

75 Ibid.

76 World Business Council for Sustainable Development and United Nations Children's Fund, 'Tackling Child Labour: An introduction for business leaders', WBCSD and UNICEF, December 2021, pp. 6, 14, 7.

Within global supply chains, the presence of child labour varies significantly by region: An estimated 9% of child labour in Northern Africa and Western Asia contributes directly or indirectly to exports to other regions, rising to 26% in Eastern and South-Eastern Asia.[77]

Child labour takes place in a vast array of circumstances. For example, an estimated 1.56 million children work on smallholder farms in Côte d'Ivoire and Ghana growing cocoa.[78] Children are working in informal factories and are involved in ship-breaking in Bangladesh, helping parents meet palm oil quotas in Indonesia, farming cotton in Türkiye, selling mobile phone cards on the streets in Tanzania, mining cobalt in the Democratic Republic of the Congo, and collecting and recycling of electronic waste in the Philippines.[79]

The pressures that lead to increased risk of children being engaged in child labour can be a direct result of business conduct. This includes, for example:[80]

- Purchasing practices such as piecework, price squeezes, short-term supplier relationships, volatility in order volumes, timing and specification, expected speed of delivery, and delays in payment.
- Lack of decent wages, short-term and informal contracts, and other poor working conditions for parents and caregivers that leads to low household income, which encourages or necessitates children to work in support of their families, usually in the informal sector.[81]

3.4 Decent work

All businesses should provide decent work for young workers, parents and caregivers (Children's Rights and Business Principle 3)[82]

Decent work is an issue for young workers, including children, as well as for parents and other caregivers. "Child work" is not the same as "child labour." It can be a positive experience when children who have reached the minimum age for admission to employment participate in work that does not adversely affect their health or personal development or interfere with their schooling.[83]

Decent work for children is age-appropriate work that, at minimum, upholds the standards for adults: "It involves opportunities for work that is productive, delivers a fair income, security in the work place, social protection, better prospects for personal development and social integration, freedom to express concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men" (i.e., gender equality across the board).[84]

As outlined in Principle 3 of the CRBPs this applies to children who are above the minimum age for work (i.e., "young workers") and must provide protection from abuse, exploitation and hazardous work, with limits to working hours and access to gender-appropriate water, sanitation and hygiene facilities.

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77 International Labour Organization, et al., Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains, ILO, OECD, IOM and UNICEF, 2019, p. 8.

78 NORC, 'Final Report: Assessing progress in reducing child labour in cocoa production in cocoa growing areas of Côte d'Ivoire and Ghana', University of Chicago, October 2020, p. 10.

79 See, for example: The wide range of reports on "decent work" collated by the Child Rights Resource Centre, Save the Children. See also, World Health Organization, 'Children and digital dumpsites: e-waste exposure and child health, WHO, 2021.

80 UNICEF Child Rights and Business, 'Child Labour and Responsible Business Conduct: A guidance note for action', United Nations Children's Fund, Geneva, June 2022.

81 International Labour Organization, et al., Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains, ILO, OECD, IOM and UNICEF, 2019, p. 26. See also: International Labour Organization and International Organisation of Employers, 'ILO-IOE Child Labour Guidance for Business: How to do business with respect for children's right to be free from child labour', ILO, Geneva, 15 December 2015.

82 Principle 3: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 20–21.

83 International Programme on the Elimination of Child Labour, 'What Is Child Labour', International Labour Organization, Geneva.

84 International Labour Organization, 'Decent Work', ILO, Geneva.

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IKEA promotes the provision of decent work opportunities for young workers among its suppliers

IKEA started tackling the issue of child labour in its supply chain in the 1990s through "IWAY" – the IKEA way of responsibly procuring products, services, materials and components. As part of its public commitment in support of the International Year for the Elimination of Child Labour in 2021, IKEA accelerated its long-term programme to provide decent work for young workers (children under the age of 18 but above the minimum legal working age).

By identifying where risks to youth unemployment and lack of educational opportunities are highest, IKEA is working with suppliers to implement programmes that strengthen the inclusion of young workers in its supply chain. Since 2017, the company has undertaken several pilot programmes in Viet Nam and Indonesia to support the inclusion of young people in safe and decent work; these projects have included 11 suppliers and offered work opportunities for 174 young people. With learning from these projects, the company is taking steps to accelerate efforts on inclusion of young workers in its supply chain.

Since 2021, IKEA has been scaling up the project to create a bigger impact not only in South East Asia but globally in eight countries from five regions.

A key approach is inspiring its suppliers to take ownership of the programme. Through dialogue and training with supplier management teams, IKEA seeks to trigger their interest in and understanding of the benefits of hiring young workers, while continuing to provide support and tools to enable them further. Recent examples include supplier training on recruiting young workers and guidance on how to analyse opportunities and tasks that are safe and appropriate for them to deliver.

In its public commitment, IKEA also announced plans to: strengthen children's rights in its due diligence systems; join the ILO Child Labour Platform; and work with partners to advance family-friendly policies to address the root causes of child labour.

Working conditions of parents and other caregivers: Family-friendly workplace practices and policies relating to working adults have big consequences for children. Globally, in 2021 over 71% of men and 46% of women were employed or looking for work in both the formal and non-formal sectors, and the private sector accounts for most of these jobs, sometimes up to 90% in developing countries.[85]

For workers who are parents or have caregiving responsibility for children, business (and government) policies such as paid parental leave and paid sick leave, living wages, access to affordable, quality childcare and health care, breastfeeding and nutrition support, child benefits, flexible working arrangements, and the regulation of overtime and working hours can have very real implications for the physical, emotional and intellectual development of their children.

85 United Nations Children's Fund, 'Family-Friendly Policies: Redesigning the workplace of the future – A policy brief', UNICEF, July 2019, p. 1; International Finance Corporation, 'Tackling Childcare: The business case for employer-supported childcare', IFC, Washington, D.C., 2017, p. 5.

Yet for hundreds of millions of workers, especially those in informal work, these basic measures are a distant reality. Moreover, t**he lack of family-friendly practices disproportionately affects women** – and the large-scale disruptions associated with COVID-19 have worsened the situation.[86]

Research has shown that longer periods of paid parental leave (for both mothers and fathers) improve child health and lower poverty. In low- and-middle income countries a one-month increase in paid maternity leave has been found to reduce infant mortality rates by 13%. But, according to a 2022 ILO report, 30% of women globally lack access to sufficient paid maternity leave.[87] In addition, almost two-thirds of the world's children under age 1 live in countries where fathers are not entitled to a single day of paid paternity leave.[88]

Studies have also shown that increases in the minimum wage are associated with significant decreases in children's malnutrition indicators such as stunting and low birthweight, and decreased risk of child maltreatment.[89] Without adequate occupational safety and health measures at work, such as water and sanitation facilities, working parents can expose children to toxic chemicals[90] or contribute to the spread of diseases.[91]

Migrant work is a global phenomenon affecting millions of families, especially in low- and middle-income countries. China alone, for example, has 61 million children left behind as one or both parents migrate for work.[92]

A systematic review noted that while children may benefit from the remittances of migrant working parents, they also had increased risk of mental health concerns such as depression, and nutritional problems such as wasting. Economic necessity means that large numbers of children are also left behind as one or both parents migrate in countries such as South Africa, the Philippines and Ecuador. Overall, information on the health outcomes is severely limited: The study identified 99 sources, but none of them reviewed key areas of health among the children and adolescents left behind across all low- and middle-income countries.[93]

3.5 Child safeguarding

> *All businesses should ensure the protection and safety of children in all business activities and facilities (Children's Rights and Business Principle 4)*[94]

It is the responsibility of all companies to address safety and protection risks to children in corporate facilities and to ensure that a zero-tolerance policy for violence, exploitation and abuse applies to staff in all business activities, whether they are on- or off-site.

The basic principles of child safeguarding mean that this extends to include the prevention of physical, sexual and emotional abuse and maltreatment by employees and other persons whom the company is responsible for, such as partners, contractors, visitors to corporate premises or

86 UN Global Compact and United Nations Children's Fund, 'Family-Friendly Workplaces: Policies and practices to advance decent work in global supply chains', UN Global Compact and UNICEF, 2020, p. 2.

87 International Labour Organization, 'Care at Work: Investing in care leave and services for a more gender equal world of work', March 2022.

88 United Nations Children's Fund, 'Family-Friendly Policies: Redesigning the workplace of the future – A policy brief', UNICEF, July 2019, p. 4.

89 Earle, Alison, and Jody Heyman, 'Paid Parental Leave and Family-Friendly Policies: An evidence brief', UNICEF Early Childhood Development, New York, July 2019, pp. 2, 4.

90 See, for example: United Nations Children's Fund, 'Understanding the Impact of Pesticides on Children: A discussion paper', UNICEF, New York, January 2018.

91 Wash4Work, 'WASH & COVID-19', UN Global Compact.

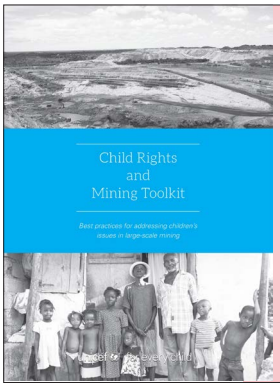
92 UNICEF China, 'UNICEF Welcomes State Council Guideline on the Protection of Left Behind Children', United Nations Children's Fund, Beijing, 22 February 2016.

93 Fellmeth, Gracia, et al., 'Health Impacts of Parental Migration on Left-Behind Children and Adolescents: A systematic review and meta-analysis', The Lancet, vol. 392, 15 December 2018, pp. 2567–2582.

94 Principle 4: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 22–23.

volunteers.[95] Significantly, this covers a wide range of potential risks and harms to children, well beyond child labour.

ECPAT reports, for example, that during the past decade, until the COVID-19 pandemic, the number of international travellers was growing continuously – and the sexual exploitation of children in the context of travel and tourism continued to "thrive globally, with child sex offenders using the infrastructure of the industry, increasingly combined with online technologies, to commit their crimes."[96]



Guidance:
The Child Rights and Mining Toolkit (2017) tailors guidance on children's rights and impact assessment, stakeholder engagement, environment and security to the large-scale mining industry.

There have been 30 years or more of civil society campaigning and action by governments, regulators and businesses on sexual exploitation of children in the context of travel and tourism. So responsible businesses, especially in the aviation and tourism sectors, are well aware of the issues and the risks to businesses as well as to children.

The abuse and sexual exploitation of children can be a particular issue when business operations rely on **concentrations of workers temporarily living far from home**, such as major infrastructural projects, the development of mines, ports and any industry that relies on migrant labour. A UNICEF study in Bolivia, for example, found high levels of child sexual exploitation in the mining and extractive zones of the Departments of La Paz, Oruro and Potosi.[97] Child sexual exploitation has been reported from many other mining communities across Latin America and Africa.

Any business that has contact with children offline or online may find that the behaviour of personnel or others for whom they are responsible creates risk to children. And **businesses have contact with children in more ways than they might first appreciate**. Facilities might have areas that are unsafe for children, but to which they can get access (industrial spoil, waste sites, mining talus). Companies that have child customers may find that staff or contractors take advantage of their position to abuse children. Corporations that rely on significant labour migration may be creating the conditions in which sexual and other forms of exploitation thrive.

The message is that very few businesses can assume that they do not need to be vigilant about their practices or the behaviour of the people they are responsible for – and these responsibilities extend throughout the value chain.

95 UNICEF Child Rights and Business Unit, 'Child Safeguarding Toolkit for Business: A step-by-step guide to identifying and preventing risks to children who interact with your business', United Nations Children's Fund, May 2018, p. 4.

96 ECPAT International, 'Summary Paper on Sexual Exploitation of Children in Travel and Tourism', ECPAT International, Bangkok, October 2020, pp. 1–2, 4.

97 UNICEF Bolivia, ICCO Cooperation and Vuela Libre, Explotación sexual comercial de niñas, niños y adolescentes y sus rutas en zonas mineras y extractivas en territorios de los departamentos de La Paz, Oruro y Potosí (Commercial sexual exploitation of children and adolescents and its routes in mining and extractive zones in territories of the departments of La Paz, Oruro and Potosí), La Paz, Bolivia, March 2018, (in Spanish).

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3.6 Marketing and advertising

All businesses should use marketing and advertising that respect and support children's rights (Children's Rights and Business Principle 6)[98]

Old and new marketing channels, constantly evolving techniques and escalating exposure have powerful impacts on children. Children are affected as consumers in their own right and through the adults around them. While viewing television remains popular among children, the internet adds a complementary and increasingly important dimension, enabling immersive, interactive and integrated marketing strategies.[99]

Branding and building relationships with consumers are a key focus of marketing communications. The ability to critically engage with marketing techniques will reflect the individual child's level of experience and maturity. Further, some forms of digital advertising aim to subliminally influence children (and adults), for example, when they are engaged in games or learning, a time when their critical-thinking and decision-making abilities are compromised. When the commercial intent of advertising is obscured – through use of stealth or social marketing, or because the child has not yet acquired the cognitive abilities or media literacy to identify it – the ramifications may be serious.[100]

Childhood overweight and obesity is one example of the real-world implications for children's rights. There is ample evidence that the marketing of unhealthy food is associated with increased childhood overweight and obesity, and other diet-related chronic disease.[101] According to the World Health Organization, more than 340 million children and adolescents aged 5–19 were overweight or obese in 2016, and 39 million children under age 5 were overweight or obese in 2020.[102]

Obesity can affect a child's health, education attainment and quality of life, and can potentially lead to psychological effects, breathing difficulties, increased risk of broken bones, high blood pressure, early markers of heart disease and insulin resistance. As they grow older people are likely to continue the consumption habits they acquire as children, thus childhood obesity is associated with a higher chance of adult obesity, premature death and preventable disability.[103]

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98 Principle 6: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 26–27.

99 Garde, Amandine, et al., 'A Child Rights-Based Approach to Food Marketing: A guide for policy makers', United Nations Children's Fund, Geneva, April 2018, p. 14.

100 Nyst, Carly, 'Children and Digital Marketing: Rights, risks and responsibilities', Discussion Paper, UNICEF Private Sector Engagement, Geneva, April 2018, p. 10.

101 See: World Health Organization 'Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children', WHO, Geneva, 2010; Garde, Amandine, et al., 'A Child Rights-Based Approach to Food Marketing', United Nations Children's Fund, Geneva, April 2018.

102 World Health Organization, 'Obesity and Overweight', WHO, Geneva, 9 June 2021.

103 Garde, Amandine, et al., 'A Child Rights-Based Approach to Food Marketing', United Nations Children's Fund, Geneva, April 2018, p. 7.

Guidance: ***A Child Rights-Based Approach to Food Marketing: a guide for policy makers*** (2018), identifies how the core principles of the Convention on the Rights of the Child and the UNGPs can be applied by governments and businesses to ensure marketing practices respect children's rights.

Among other children's rights, the marketing of unhealthy foods and beverages impacts on health, nutrition, survival and development, education and access to information. Despite policies and commitments, children remain regularly exposed to marketing of unhealthy foods and beverages. For example, a UNICEF study in Latin America, where childhood obesity rates in some countries are as high as 40%, shows how retailers use marketing strategies of low prices, promotions, packaging, and placement on supermarket shelves to promote unhealthy food and beverages to children.[104]

Children are more exposed to marketing of unhealthy foods than adults, and children living among lower socio-economic groups tend to be exposed to greater degrees of marketing through television, magazines, outdoor advertising, and the placement and frequency of fast-food outlets. Pre-existing vulnerabilities are amplified because such marketing is often aimed specifically to reach these groups. Digital marketing methods raise the level of concern because they can target children – and parents and caregivers – with precision.[105]

The **marketing of breast-milk substitutes** is another example of the striking impact of marketing on child (and maternal) health. A study of such marketing in eight countries published by WHO and UNICEF in 2022 describes manipulative practices that exploit parents' anxieties and aspirations and undermines confidence in breastfeeding. The report also describes how formula milk companies distort science and medicine to legitimize their claims and push their products. An estimated 800,000 deaths of children under age 5 and 20,000 breast cancer deaths among mothers could be avoided each year if breastfeeding was scaled up.[106]

Every day, a barrage of media messages reaches children and adolescents, either through the marketer's intention or seen by children in the course of their regular activities. The quantity and quality of these messages can shape child perceptions of what society is or could be.[107]

Promoting positive representation through the marketing and advertising of products and content is a vital part of achieving equality and inclusion. That **advertising can perpetrate stereotypes** is increasingly recognized in some jurisdictions and by leading businesses. The Unstereotype Alliance, for example, is an industry-led initiative convened by UN Women that aims to end harmful stereotypes in media and advertising content.[108]

In a report that paved the way for tougher legislation on gender stereotyping in the United Kingdom, the Advertising Standards Authority identified six categories of stereotypes:

1. Roles (occupations usually associated with a specific gender);
2. Characteristics (attributes or behaviour);
3. Mocking people who do not conform to gender stereotypes;
4. Sexualization;
5. Objectification (focusing on someone's body or body parts); and
6. Unhealthy body image.[109]

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104 UNICEF Latin America and the Caribbean Regional Office, 'Childhood Overweight and the Retail Environment in Latin America and the Caribbean: Synthesis report', United Nations Children's Fund, 2019, pp. 4, 20–21.

105 Garde, Amandine, et al., 'A Child Rights-Based Approach to Food Marketing', United Nations Children's Fund, Geneva, April 2018, p. 45.

106 World Health Organization and United Nations Children's Fund, 'How the Marketing of Formula Milk Influences Our Decisions on Infant Feeding', WHO and UNICEF, 2022, p. 2.

107 UNICEF Gender Section, Programme Division, 'Dismantling Stereotypes to Drive Equality', United Nations Children's Fund, New York, 2022, p. 1.

108 Unstereotype Alliance.

109 Advertising Standards Authority (UK), 2017, 'Depictions, Perceptions and Harm: A report on gender stereotypes in advertising – Summary report', ASA, London, 2017, p. 4.

Stereotyping in advertising and marketing is widespread and relates to many facets of identity, including gender, race, ethnicity, culture, disability and family structure. Discriminatory stereotypes can have harmful effects on children's confidence, aspirations and health, including mental health. They can also restrict opportunities for all children, particularly those who are marginalized and excluded, to lead a life with dignity. Gender stereotyping of girls may reduce their agency and their participation in education and access to economic opportunities. Boys might respond to stereotyping by being less involved in family life and perpetuating toxic masculinity, or by having an increased tendency to commit gender-based violence.[110]

Stereotyping related to race, ethnicity or disability also has negative effects on children and frequently intersects with other forms of harm. Racial and ethnic discrimination, for example, have been linked to poverty, higher school dropout rates and lower school completion – and the impacts are particularly high for girls with disabilities.[111]

3.7 Environment

All businesses should respect and support children's rights in relation to the environment and to land acquisition and use (Children's Rights and Business Principle 7)[112]

Globally, business practices, relationships, services and products are fundamental to the causes of the climate crisis – and to the green transition that is essential to address the impacts on all of us, particularly children. As stated by Dr. Aboubacar Kampo, Director of Health, UNICEF: "The very economic system that has helped deliver many gains for children over the past three decades, is now threatening their survival, health and well-being as it drives climate change and causes pollution that is poisoning the places where children live, play and go to school."[113]

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110 UNICEF Gender Equality, 'Promoting Diversity and Inclusion in Advertising: A UNICEF playbook', United Nations Children's Fund, New York, July 2021, p. 4.

111 Ibid.

112 Principle 7: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 28–29.

113 United Nations Children's Fund, Healthy Environments for Healthy Children: Global Programme Framework, UNICEF, New York, 19 January 2021, p, iii.

Energy production, manufacturing, cement production, iron and steel working, electronics and plastics, garment and footwear, fertilizer production, agriculture (including using fossil fuels to run equipment and clearing forests for pasture), transportation and more are all causes of greenhouse gas emissions.[114] In the United States, for example, in 2020, transportation accounted for 27% of greenhouse gas emissions, electric power generation 25%, industry 24% and agriculture 11%.[115]

Children are physically more vulnerable and less able to withstand and survive climate and environmental shocks than adults.[116] And the degree of child exposure to the consequences of human-caused climate change is breathtaking:

- 820 million children are highly exposed to heatwaves
- 400 million children are highly exposed to cyclones
- 330 million children are highly exposed to riverine (riverbank) flooding
- 240 million are highly exposed to coastal flooding
- 920 million children are highly exposed to water scarcity.[117]

Children are also more at risk of death compared with adults from diseases that are likely to be exacerbated by climate change. Currently 600 million children are highly exposed to **vector-borne diseases**, such as malaria and dengue, among others.[118]

Business can be a major user of water. In Bangladesh, for example, the garment sector is one of the main contributors to water scarcity and water pollution in urban areas. Inadequately treated industrial effluent contaminates surface water for children and communities.[119] All this is going to get worse without significant changes in global business practices.

It has been known for at least 20 years that **differences in physiology mean that pollution affects children more than adults**, even at lower doses of exposure. Regarding **air pollution**, for example, a young child breathes twice as quickly as an adult and takes in more air relative to body weight; a child's respiratory tract is also more permeable than that of an adult – making young children more vulnerable to air pollution than adults.[120]

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114 United Nations Climate Action, 'Causes and Effects of Climate Change'.

115 United States Environmental Protection Agency, 'Sources of Greenhouse Gas Emissions', Last updated 5 August 2022.

116 United Nations Children's Fund, The Climate Crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index, UNICEF Division of Communication, New York, August 2021, p. 11. On the threats to children, see also: Save the Children, 'Born into the Climate Crisis: Why we must act now to secure children's rights', Save the Children International, 2021.

117 United Nations Children's Fund, The Climate Crisis Is a Child Rights Crisis, UNICEF Division of Communication, New York, August 2021, p. 10.

118 Ibid.

119 See: Sagris, Thomas, and Justin Abbott, 'An Analysis of Industrial Water Use in Bangladesh with a Focus on the Leather and Textile Industries', 2030 Water Resources Group, May 2015.

120 Agency for Toxic Substances and Disease Registry, 'Your Child's Environmental Health: How the body works – Differences between adults and children', ATSDR, November 2002, p. 1.

Air pollution can increase pneumonia, asthma and childhood cancer. Two billion children – almost 90% of children globally – are currently exposed to air pollution at levels that exceed WHO guidelines. The main sources of ambient air pollution include burning fossil fuels, industrial processes, waste incineration and agricultural practices as well as natural processes (wildfires, dust storms, volcanic eruptions). In 2016 ambient air pollution was responsible for 4.2 million premature deaths, including nearly 300,000 children under age 5.[121]

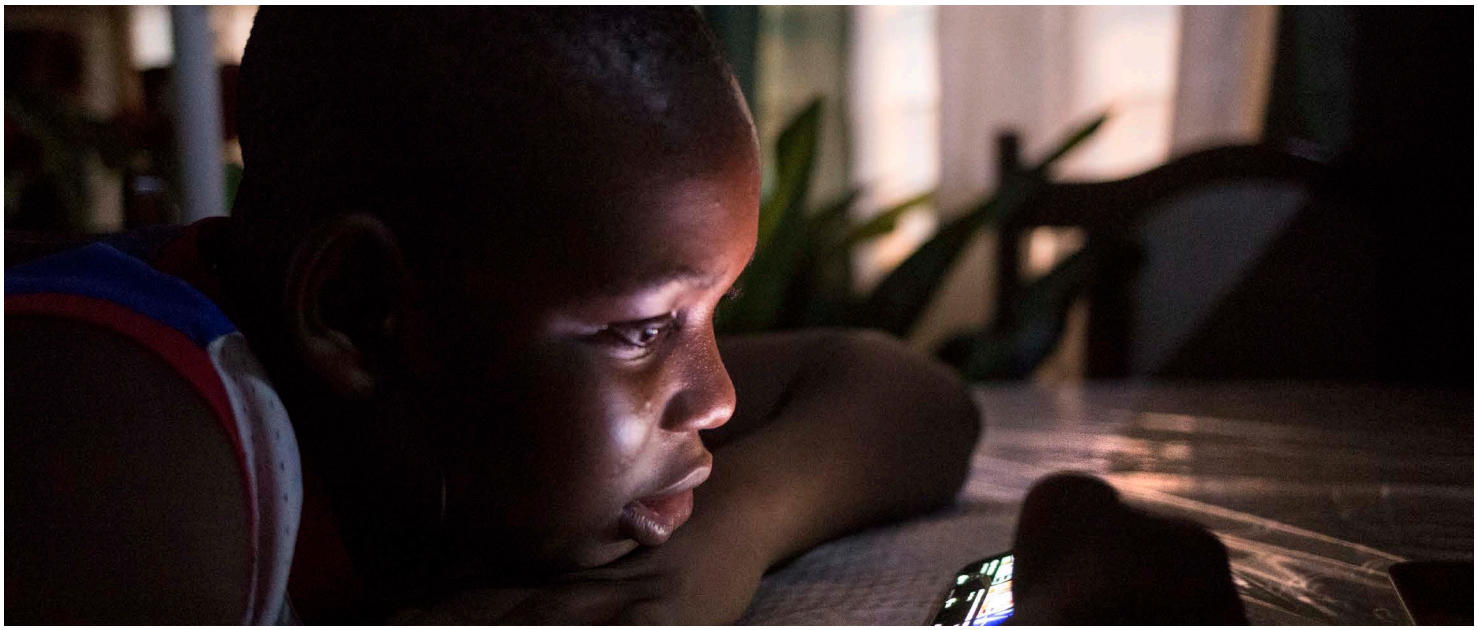
Children are also more vulnerable to **the effects of pesticides**. Exposed to aerially spayed pesticides, children will inhale double the amount of an average adult. Due to the small size of their liver and kidneys, the same amount of a chemical is likely to be 10 times more toxic than to a child than to an adult.[122]

Lead pollution is another form of industrial pollution that has major impacts on children, with 815 million children currently highly exposed to lead pollution through contaminated air, water, soil and food.[123] Children's behaviour is one factor that increases their exposure. For example, play might involve splashing around in mud or water, crawling on the floor, or rolling around in dirt. All of these activities are a common part of children's learning and healthy development, but they do increase their contact with a wide variety of pollutants and toxins.[124]

Localized pollution and mining: Impacts on children

The localized environmental impacts of mining can include dust, erosion, adverse effects on ecology and biodiversity, and the contamination of soil, ground and surface water by chemicals from the mining process, including cyanide, arsenic, sulphuric acid, mercury and heavy metals. The environmental impacts have the potential to cause a variety of illnesses in children, including respiratory, skin and eye diseases.

Children are more vulnerable to the localized environmental impacts of mining activity than adults – particularly water, air and soil pollution – due to their progressive and incomplete physical development; the fact that they spend more time playing than adults and hand-to-mouth behaviour that makes children more likely to ingest pollutants; and their varying stages of mental development, for example, inability to read hazard and warning signs.[125]



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121 World Health Organization, 'Air Pollution and Child Health: Prescribing clean air – Summary', WHO, Geneva, 2018, p. 1.

122 United Nations Children's Fund, 'Understanding the Impact of Pesticides on Children: A discussion paper', UNICEF. New York, January 2018, p. 5.

123 United Nations Children's Fund, The Climate Crisis Is a Child Rights Crisis, UNICEF Division of Communication, New York, August 2021, p. 10.

124 Agency for Toxic Substances and Disease Registry, 'Your Child's Environmental Health: How the body works – Differences between adults and children', ATSDR, November 2002, p. 2.

125 United Nations Children's Fund, 'Children's Rights and the Mining Sector: UNICEF Extractive Pilot', UNICEF, Geneva, March 2015, p. 13.

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3.8 The digital environment

When the CRBPs were drafted they made scant mention of the digital environment. Principle 5, which stands within the marketplace arena, though does not specifically mention digital technologies, states that "all businesses should ensure that products and services are safe, and seek to support children's rights through them."[126]

Today digital technology has permeated daily life and changed the world – and it is increasingly changing childhood as more and more children, parents and caregivers spend more time online.[127] This reality makes dedicated attention to child rights and business in the digital environment increasingly critical.

Children make up an estimated one-third of internet users worldwide,[128] and innovations in digital technologies affect their lives and their rights in wide-ranging and interdependent ways, even when they do not access the internet. For example, according to the United Nations Special Rapporteur on the right to privacy, 80% of children living in Western countries have a digital footprint before they are two years old.[129]

"The rights of every child must be respected, protected and fulfilled in the digital environment."

– Committee on the Rights of the Child, General comment No. 25 (2021), para. 4

Meaningful access to digital technologies can provide great opportunities and benefits for children, including education, leisure, access to information and participation in decisions affecting them. However, children can be particularly vulnerable when accessing the internet, which is an "open space" that does not distinguish who is using it, including by age. Online risks to children can be classified under a "4Cs" framework that encompasses "contact, conduct, content and contract."[130] Businesses, as the developers, providers and owners of a vast proportion of the digital environment, are integral to protecting children.

126 Principle 5: United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, pp. 24–25.

127 See, for example: United Nations Children's Fund, State of the World's Children 2017: Children in a digital world, UNICEF, New York, 2017.

128 Byrne, J., et al., Global Kinds Online Research Synthesis, 2015–2016, UNICEF Office of Research Innocenti and London School of Economics and Political Science, Florence, Italy, 2016, p. 6.

129 Artificial intelligence and privacy, and children's privacy: Report of the Special Rapporteur on the right to privacy, A/HRC/46/37, United Nations, 25 January 2021, para. 86.

130 To understand more about these risk categories, see: Livingstone, Sonia, and Mariya Stoilova, 'The 4Cs: Classifying online risk to children', Children Online: Research and Evidence, Hamburg, 2021.

Technology is continuously and rapidly evolving. The task of finding the best balance between realizing opportunities, reducing risks and preventing harm in the digital environment remains a challenge for both policymakers and industry.

In its 2021 Global Threat Assessment, WeProtect reports that "COVID-19 created a 'perfect storm' of conditions that fuelled a rise in child sexual exploitation and abuse across the globe." Since 2019, the reporting of such abuse online increased to the highest levels yet recorded, including an increase in incidence of online grooming, the volume of child sexual abuse material, sharing and distribution of child sex abuse material, and livestreaming for payment.[131]

Business activities in the digital environment can also pose direct risks to children's rights. For example, companies (and governments) collect and process more data on children than ever before. As specified by the Committee on the Rights of the Child in General Comment No. 25:

> The digital environment includes businesses that rely financially on processing personal data to target revenue-generating or paid-for content, and such processes intentionally and unintentionally affect the digital experiences of children. Many of those processes involve multiple commercial partners, creating a supply chain of commercial activity and the processing of personal data that may result in violations or abuses of children's rights, including through advertising design features that anticipate and guide a child's actions towards more extreme content, automated notifications that can interrupt sleep or the use of a child's personal information or location to target potentially harmful commercially driven content.[132]

In light of these factors described by the Committee on the Rights of the Child, among others, the risks to children continue to be heightened by the enormous asymmetry of power between children and technology companies.

Because of children's greater cognitive, emotional, and physical vulnerabilities, the privacy and fairness concerns emerging from the collection of adults' data are magnified in the case of children's data. One aspect of this relates to the fact that children are less able to understand the long-term implications of consenting to their data being collected. The implications of surveillance and tracking are also more significant for children due to greater exposure over their lifetime, and due to the importance of childhood as a time for development and experimentation with identity.[133]

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131 WeProtect Global Alliance, Global Threat Assessment 2021, p. 22.

132 Committee on the Rights of the Child, General comment No. 25 (2021) on children's rights in relation to the digital environment, CRC/C/GC/25, United Nations, 2 March 2021, para. 40.

133 Byrne, Jasmina, Emma Day and Linda Raftree, 'The Case for Better Governance of Children's Data: A manifesto', Office of Global Insight and Policy, United Nations Children's Fund, New York, May 2021, p. 4.

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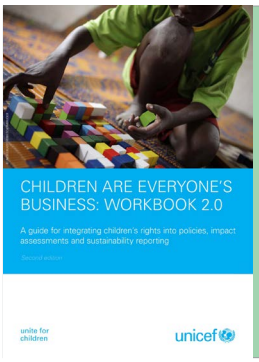
CHAPTER 4: A DECADE OF EMBEDDING CHILDREN'S RIGHTS IN RESPONSIBLE BUSINESS CONDUCT

While the headway is slow, children's rights are becoming more visible in responsible business conduct. Overall, action to address the impact of business on children's rights remains primarily focused on risks around child labour. There remain big gaps between policy rhetoric and implementation.

Chapter 4 begins with an overall assessment of progress with large companies based primarily on independent benchmarking data. It then considers limited information on small and medium-sized enterprises (SMEs), which points to even slower progress, followed by a discussion on the important role that business platforms can play in accelerating, or hindering, action on children's rights.

The chapter then identifies some promising developments among institutional investors as key business influencers, and concludes with examples of recent governmental action that is integrating children's rights into legislation or other initiatives demanding responsible business conduct.

4.1 Single issue focus or comprehensive child rights due diligence



Guidance: ***Children Are Everyone's Business: Workbook 2.0*** (2014) offers comprehensive guidance on integrating children's rights into policies, impact assessments and sustainability reporting.

Two distinct approaches can be identified in regard to responsible business conduct addressing adverse impacts on children. These are loosely defined by the degree to which they are informed by evidence of salient risk and impact on children, based on due diligence using a comprehensive understanding of child rights. In this context, "saliency" indicates the most prominent and severe negative impacts of a company's activities and business relationships.[134]

The first approach is typified by companies taking up a single issue that is relevant for children, but not basing this on comprehensive ongoing due diligence. Much action on child labour, nutrition or child sexual exploitation is like this, and so too is action on "new" issues such as family-friendly workplace policies and practices.

When founded on science and solid evidence, this approach can lead to significant improvement in business practices and operations and outcomes for children. But it is also common for focus on a single issue to be founded on what is in the public eye, compliance, or on assumptions about what is relevant for children and material to the company. These assumptions might or not be well-founded and based on evidence and sector-wide experience. Even evidence-based approaches that are not based on comprehensive due diligence carry risk of inadvertently deprioritizing other salient child rights impacts of companies or business sectors.

134 Shift, 'Salient Human Rights Issues'.

The second, a mere decade old and less common, is framed by the transformative approach of the United Nations Guiding Principles, the OECD Guidelines for Multinational Enterprises and the Children's Rights and Business Principles. It involves a comprehensive and ongoing implementation of children's rights due diligence and accountability through remediation, with the ultimate goal of creating a business environment in which respect for human dignity is fundamental (*see section 2.2*). **This is the approach that will lead to the business world becoming a systemic force for children's rights.**

Comprehensive and ongoing implementation of child rights due diligence and accountability through remediation – with the ultimate goal of creating a business environment in which respect for human dignity is fundamental – is the approach that will lead to the business world becoming a systemic force for children's rights.

While increasing numbers of companies are implementing due diligence, legal compliance remains a prime driver of business action. Much corporate action on **child labour,** for example, appears to be based primarily on compliance with government regulations, rather than on the approach framed by the UNGPs, which would involve action premised on due diligence and a comprehensive assessment of children's rights.

A UNICEF survey of businesses in 14 countries found that their **family-friendly policies** rarely went beyond what was required by national legislation, even when these laws did not meet international standards. For the majority of companies, and particularly for SMEs, achieving compliance with national laws was the goal. The most important predictor for the duration of maternity leave was the length specified in national legislation rather than international recommendations.[135]

Adidas and grievance mechanisms

Since 2017, Adidas has implemented an app-based digital grievance channel for workers in its supply chains to anonymously report grievances and concerns – including those that may relate to children's rights. The company has progressively improved and expanded the use of this grievance mechanism, and in 2021 more than 600,000 workers employed in 123 manufacturing facilities across 18 countries had access to this system, reflecting a 99% coverage of Adidas' strategic manufacturing partners.

Nearly 52,000 human and labour rights grievances were received in 2021, with 99% of them being closed by the end of the year. The top grievances were related to concerns over general facilities, benefits, health and safety issues associated with COVID-19, and communication.

Access to remedy is a strong proxy indicator of whether businesses are actually being held to account for their adverse impacts – and grievance mechanisms are an important source of information that studies and assessments may miss. But even where such mechanisms exist, there is strong risk that they are not accessible to children.

The principle of proportionality of means is recognized in the UNGPs, and followed through in the CRBPs.[136] While it may not be practical for smaller companies to individually carry out regular impact assessments, this does not excuse smaller companies from failure to respect human rights. One element of a solution for SMEs may be a sector-wide human rights impact assessment; the Danish Institute for Human Rights and the Institute for Human Rights and Business have developed valuable guidance in this regard.[137] However, such assessments remain limited in number, and issues such as the credibility and authority of those who carry out the assessment needing to be resolved.

135 United Nations Children's Fund, 'Family-Friendly Policies: A global survey of business policy', Working Paper, UNICEF, Geneva, January 2020, p. 9.

136 Principle 14: "The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure." (Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights', OHCHR, New York and Geneva, 2011, p. 15); United Nations Children's Fund, UN Global Compact and Save the Children, 'Children's Rights and Business Principles', 2012, p. 8.

137 Danish Institute for Human Rights and Institute for Human Rights and Business, 'Sector Wide Impact Assessments (SWIA)', Copenhagen.

The UNGPs recognize that it is reasonable and practical to focus resources initially on the impacts identified as most salient, before moving on to address the next impact.[138] But this should be predicated on initial impact assessment having been comprehensive.

4.2 Children's rights reporting and disclosure by large companies

A review of company sustainability and CSR reports in 2012, shortly after the publication of the CRBPs, found that business reporting and disclosure on children's rights was, with a few exceptions, significantly underdeveloped. When carried out at all, corporate reporting emphasized polices and processes over performance. There was a predominance of reporting on positive contributions and an overemphasis on philanthropy. Discussion of systemic problems or reporting on adverse impacts was lacking.[139] On the part of reporting entities, children's rights were primarily understood to correlate with child labour.

The Global Child Forum (GCF) 2014 benchmark, based on a sample of 1,032 companies selected from the Forbes 2000, painted a similar picture.[140] Among the companies reviewed, 62% had a child labour policy, but only 24% addressed another child rights issue as well. Only 6% addressed child sexual exploitation.

Some companies were applying self-regulatory measures on marketing to children, but most did not. There was board-level responsibility for sustainability, CSR, human rights or social issues in 40% of companies, but only 13% of companies explicitly mentioned children's rights as part of these responsibilities. Only 7% of companies referred to the UNGPs, and a meagre 1% referred to the Convention on the Rights of the Child or the CRBPs, which suggests that human rights-based approaches were still very much in their infancy.

Digging a little below the surface, **there was a significant gap between policy and implementation:** 62% of companies were carrying out risk or materiality assessments but only 23% included child labour and other child rights issues in these.

Five years later the picture was improving. Based on a sample of 692 companies selected on the basis of being largest by revenue, **the 2019 benchmark**[141] found a considerable increase in the number of companies addressing both child labour and other children's rights issues among companies reviewed in both 2014 and 2019.[142] There was now board-level responsibility for children's rights or child labour in 30% of companies reviewed in both years. The percentage of companies reviewed in both years carrying out risk or materiality assessments that included children's rights or child labour had risen to 38%.

Despite movement towards recognizing a wider range of impacts on children, policies and commitments were still primarily focused on child labour. Companies continued to report more on positive contributions to child well-being than on addressing adverse impacts. Little attention was being paid to such issues as responsible marketing and product responsibility from a child rights impact perspective.

While reference to the UNGPs jumped to 26%, a significantly lower proportion of companies referred to the standards specifically relating to children, i.e., ILO Convention No. 138 or No. 182

Despite movement towards recognizing a wider range of impacts, policies and commitments were primarily focused on child labour. Companies reported more on positive contributions to child well-being than on addressing adverse impacts – and little attention was paid to such issues as responsible marketing and product responsibility.

138 Principle 24: "Where it is necessary to prioritize actions to address actual and potential adverse human right impacts, businesses should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable" (Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights', OHCHR, New York and Geneva, 2011, p. 26).

139 United Nations Children's Fund, 'Sustainability Reporting on Children's Rights', Working Paper, UNICEF, 2012, pp. 41, 42.

140 Global Child Forum and Boston Consulting Group, 'Children's Rights and the Corporate Sector: Setting a benchmark', GCF and BCG, 2014. For all benchmarks, including regional and global, see: https://globalchildforum.org/benchmarks.

141 This was based on a sample of 692 companies, only some of which were also included in 2014 (Global Child Forum and Boston Consulting Group, 'The State of Children's Rights and Business', 2019).

142 GCF and BCG note that changes in methodology between 2014 and 2019 may have inflated 2019 percentage scoring, but in general trends are "real."

(3%, respectively), Convention on the Rights of the Child (2%) and the CRBPs (2%). This suggests that there was greater awareness of human rights-based approaches, but that children's rights were not fully integrated. The study concluded overall that the gap between having policies and reporting how they were put into practice remained significant.

The GCF 2021 global benchmark was based on 832 companies selected from the SDG2000 list[143] on the basis of largest by revenue and geographical and sector spread. It measured performance over a period dominated by the pandemic, finding a "modest improvement" over 2019.[144] Although the primary business focus continued to be child labour – with 84% of businesses now reporting having a child labour policy – many companies also reported having family-friendly policies in place, and there was an expansion in the range of other children's rights issues being identified.

Companies in Europe and North America, followed by East Asia and Latin America and the Caribbean, tend to be the most progressive in looking beyond child labour to identify other children's rights issues and in implementation of due diligence. Companies in the Middle East and North Africa are the least active.

Although company boards were following up on environmental and climate issues, they were not making the link between these issues and children's rights. Other familiar gaps remained. For example, there was a wide gap between companies with a child labour policy, those that implemented it (58%) and those that reported on it (20%). GCF concluded: "There remains a gap between understanding children's rights issues within a corporate context and then undertaking the work necessary to address those issues with policies, programmes and transparent reporting on their outcomes."[145]

The GCF global benchmarks are an important data set, even though changes in sampling methods mean that progress between surveys is best seen as revealing a general trend rather than precise results. Furthermore, the surveys are restricted to the largest companies be revenue. But given that these are the companies that tend to be most vocal about responsible business conduct, the results are useful.

In general, while the proportion of companies in all regions adopting policies against child labour has increased, companies in Europe and North America, followed by East Asia and Latin America and the Caribbean, tend to be the most progressive in looking beyond child labour to identify other children's rights issues and in implementation of due diligence. Companies in the Middle East and North Africa are the least active.[146]

Remediation appears to be the least developed element. This is telling because remediation is a strong proxy indicator of actual implementation of due diligence. For example, the GCF global benchmark 2019 reports that supplier assessments are more common than wide-ranging grievance mechanisms. Many companies have some type of grievance mechanism in place (60%), although not always for human rights issues. In many cases the mechanism is not available to the community. Only 26% of all companies have a grievance mechanism enabling reporting of human rights grievances accessible to both external and internal stakeholders.[147]

A 2022 study of companies on the Australian Securities Exchange (ASX) found that while 81% of S&P/ASX 200 companies disclose a zero-tolerance policy to child labour, less than 1% of them disclose that they have a specific remediation policy to address it.[148]

As noted by the Committee on the Rights of the Child in General comment No. 16, children generally face challenges when attempting to obtain remedy through courts or other mechanisms. And in the context of global business operations, it is particularly difficult due to costs, lack of legal standing, limited knowledge of their rights and of available mechanisms on the part of children and their families, and the power imbalance between children and businesses.[149]

143 World Benchmarking Alliance, 'The 2,000 Most Influential Companies'.

144 Global Child Forum and Boston Consulting Group, 'The State of Children's Rights and Business', 2021.

145 Global Child Forum, 'The State of Children's Rights and Business: 10 key takeaways', GCF, Stockholm, 2021, p. 5.

146 Global Child Forum and Boston Consulting Group, 'The State of Children's Rights and Business', 2021.

147 Global Child Forum and Boston Consulting Group, 'The State of Children's Rights and Business', 2019.

148 See: Ethical Partners Funds Management and UNICEF Australia, 'Integrating Child Rights across the ASX: A UNICEF Investor Tool Benchmarking Report', Part A and Part B, June 2022.

149 Committee on the Rights of the Child, General comment No. 16 (2013), para. 4 (c).

4.3 Limited data on small and medium-sized enterprises

SMEs play a major role in most economies. According to the World Bank, they represent about 90% of businesses and more than 50% of employment worldwide.[150] According to the OECD, they make up approximately 99% of all firms in OECD countries, accounting for around 60% of jobs.[151]

Regarding **the extent to which SMEs are implementing due diligence and other measures to respect human rights, including those of children,** the availability of data is currently inadequate. What there is suggests that SMEs experience multiple challenges to the implementation of rights-based responsible business conduct.[152]

Research in Thailand and Viet Nam, for example, suggests that SMEs in general and national businesses not linked to global supply chains in particular have lower awareness about children's rights than larger enterprises, and are less likely to implement measures to respect children's rights or to address specific issues such as family-friendly policies.[153] And the COVID-19 pandemic challenged what progress there has been, as small enterprises had to cancel and scale back policies such as those supporting employees.

Research by ILO on business action on child labour in Brazil, India and South Africa in published in 2013, for example, found little evidence of due diligence among SMEs.[154]

Child rights and SMEs in Viet Nam

In 2021 the Viet Nam Chamber of Commerce and Industry (VCCI) and the United Nations Children's Fund published a comprehensive assessment of 265 small and medium-sized enterprises in the apparel and footwear sector and in travel and tourism, two of the country's most important industries.

The study set out to review the level of understanding about child rights, and documented key challenges and opportunities for action. It found that the majority of SMEs did not have relevant policies for eliminating child labour, and it was often a challenge to fulfil national regulations related to child rights and business.

Key issues reported by businesses were the lack of resources (71%), not having relevant skills and knowledge (69%), and not having enough support from the government and local community (67%) and from buyers (58%). Most of the SMEs that participated in the survey had never received any support to implement children's rights.

The study noted that SMEs linked to global buyers often performed better – demonstrating the power of leverage in supply chains.[155]

150 World Bank, 'Small and Medium Enterprises (SMEs) Finance', accessed 13 October 2022.

151 Organisation for Economic Co-operation and Development, 'Background Note on Regulatory Developments Concerning Due Diligence for Responsible Business Conduct (RBC): The role of small and medium sized enterprises (SMEs)', OECD, 2021, p. 2.

152 Ibid., pp. 2–3.

153 UNICEF Thailand, 'Family-Friendly Policies and Practices in Thailand's Private Sector', United Nations Children's Fund, Bangkok, 2022; Viet Nam Chamber of Commerce and Industry and United Nations Children's Fund, Research Report: Assessment on small and medium enterprises and children's rights in Viet Nam, VCCI and UNICEF, Hanoi, October 2021.

154 International Labour Organization, 'Business and the Fight against Child Labour: Experience from India, Brazil and South Africa', ILO, 2013.

155 Viet Nam Chamber of Commerce and Industry and United Nations Children's Fund, Research Report: Assessment on small and medium enterprises and children's rights in Viet Nam, VCCI and UNICEF, Hanoi, October 2021, pp. vi, viii.

4.4 Initiatives by platforms can be a force for change – but platforms can also be barriers

International and national business platforms are potentially important multipliers of action and credible voices to the business community on action for children's rights and sustainability. Platforms often play a key role in developing and implementing self-regulation. The OECD has identified both **strengths and weaknesses** of this approach. Advantages can include filling regulatory gaps quickly, greater flexibility in response to emerging issues, the possibility of going beyond legal requirements, and higher compliance levels (often when business has participated in the development of standards). On the other hand, self-regulating instruments may be based on compromise and therefore weakened, lack mechanisms for oversight of compliance, and are often voluntary to participate in, unlike government regulation. It points out that **governments can play a key role in demanding and supporting self-regulation**, including by monitoring its application, by linking self-regulation to government standards and by requiring compliance.[156]

Over the past decade some sectoral bodies have emerged as leaders in promoting corporate knowledge and action to prevent adverse impacts on children. On the other hand, others have lobbied against important measures or have developed fairly weak voluntary measures with minimal or no mechanism for enforcement.

Children's rights are prominent, for example, in the GSMA's guidance to mobile operators on human rights, with specific references to impact assessment, child online safety and child labour.[157] The GSMA mPower Youth initiative brings together the multiple positive contributions that mobile technology can contribute to children's lives with the business conduct standards that are necessary for mobile operators to prevent and address adverse impacts.[158]

Since 2018 it has been mandatory for the over 5,000 members of the Roundtable on Sustainable Palm Oil (RSPO) to develop and implement a range of policies relevant to children's rights (and to the rights of adults). These include child protection and safeguarding, child labour, decent work, access to education, clean water, sanitation and accessible remediation. In 2020 the RSPO published strengthened interpretative guidance for producing companies, smallholders and actors in the supply chain on how to capture children's rights more effectively.[159]

An independent study indicates that the RSPO's initiatives have increased awareness of children's rights in regard to the wide range of environmental and social issues raised by palm oil. However, comprehensive implementation remains a work in progress, with companies still tending to focus on child labour.[160]

At the national level, dozens of platforms are promoting action for child rights, ranging from impact assessment to the implementation of family-friendly policies, often in collaboration with civil society organizations and UNICEF. These include chambers of commerce and industry in Viet Nam and Mongolia; stock exchanges in Zagreb and Thailand, and oversight bodies such as the Philippines Security and Exchange Commission through sustainability reporting templates; local Global Compact networks in Bolivia, Colombia and Panama; artisanal mining associations in Uganda; and tourism bodies in Colombia, the Dominican Republic and Zanzibar.

156 Organisation for Economic Co-operation and Development, 'Industry Self Regulation: Role and use in supporting consumer interests', OECD Digital Economy Papers, No. 247, OECD Publishing, Paris, 1 March 2015.

157 GSMA, 'Human Rights Guidance for the Mobile Industry', GSMA Head Office, London, 2021. See also: #BetterFuture, GSMA.

158 GSMA and United Nations Children's Fund, 'Enhancing Children's Lives through Mobile: A guide for mobile network operators', May 2019. See, also: mPower Youth, 'Mobile Impact Areas', GSMA.

159 Roundtable on Sustainable Palm Oil, 'RSPO Launches New Guidance to Further Strengthen Child Rights Protection', 9 December 2020.

160 Pasaribu, Stephany Iriana, and Frank Vanclay, 'Children's Rights in the Indonesian Oil Palm Industry: Improving company respect for the rights of the child', Land, vol. 10, no. 5, 8 May 2021.

An example of a **major international body taking action in this space** is the International Organisation of Employers (IOE), which has produced joint guidance with the ILO on addressing child labour.[161]

On the other hand, some examples of business platforms taking a retrogressive position include the US Hispanic Chamber of Commerce lobbying against anti-obesity measures in Mexico,[162] and the Tel Aviv Chamber of Commerce seeking to legally challenge amendments to Israel's Restriction of Advertising and Marketing of Tobacco Products Law.[163]

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161 International Labour Organization and United Nations Children's Fund, 'Child Labour: Global estimates 2020, trends and the road forward – Executive summary', ILO and UNICEF, Geneva and New York, June 2021.

162 SinEmbargo, La Cámara de Comercio Hispana le declara la guerra al etiquetado claro en productos chitarra (Hispanic Chamber of Commerce Declares War on Clear Labelling on Junk Products), 12 October 2020 (in Spanish).

163 The Tel Aviv Chamber of Commerce v. State of Israel – Ministry of Health et al, HC2951/19, Israel Supreme Court, 25 November 2019.

4.5 Institutional investors using their influence for children

Progress on children's rights in the financial sector remains a mixed picture, although front-runners are emerging.

A survey by the Global Child Forum in 2014 found limited focus on children's rights by responsible investors, and when children's rights were addressed, the focus was on child labour, matching the situation across the business world in general.[164] But this has begun to change, with some influential investors now integrating a more comprehensive approach to children's issues into stewardship.

Norges Bank Investment Management (NBIM), manager of the world's largest sovereign wealth fund, expects companies to integrate children's rights into their policies, corporate strategy, risk management and reporting.[165] NBIM initially focused its attention on child labour, but it is now taking a comprehensive approach to child rights due diligence. NBIM and UNICEF have collaborated to convene a network of apparel and footwear companies to support peer learning and develop guidance on improving respect for children's rights in global supply chains.[166]

Other examples, such as work by the Interfaith Center on Corporate Responsibility, a coalition of 300 faith-based investors, involve coordinated collective action and the use shareholder resolutions when discussion with companies has not achieved the necessary progress.[167]

Organizations such as Proxy Impact, which provides ESG shareholder engagement and proxy voting services that promote sustainable and responsible business practices, have collaborated with investors to take forward shareholder resolutions.[168] In 2020, for example, investors filed proposals urging Apple, Facebook and Google and internet service providers Verizon and AT&T to assess the potential sexual exploitation of children across their businesses.[169] Verizon and AT&T have since conducted child rights risk and impact assessments.[170]

The Dutch Association of Investors for Sustainable Development (VBDO) has collaborated with the Work: No Child's Business Alliance to analyse child labour and the approach of Dutch institutional investors. Significantly, they found that while engagement with companies on remedy and prevention of child labour is regarded as the most effective strategy, exclusion from investment was the most widely used approach.[171] This could suggest that a primary concern among investors remains compliance and reputational risk rather than effective action for children.

UNICEF and Sustainalytics have published tools and guidance for investors on integrating child rights into ESG and investor decision-making.[172] The Investor Alliance for Human Rights has produced guidance for the ICT sector on salient child rights issues.[173]

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164 Global Child Forum 'Investor Perspectives on Children's Rights', GCF, 2014.

165 Norges Bank Investment Management, 'Children's Rights'.

166 United Nations Children's Fund and Norges Bank Investment Management, 'Network on Children's Rights in the Garment and Footwear Sector: Summary report (2017–2019)', UNICEF and NBIM, June 2020. See also: United Nations Children's Fund and Article One, 'Children's Rights in the Garment and Footwear Supply Chain: A practical tool for integrating children's rights into responsible sourcing frameworks', UNICEF, June 2020.

167 Interfaith Center on Corporate Responsibility, 'About ICCR'.

168 See: Proxy Impact, 'The Power to Change Business as Usual'.

169 Investor Alliance for Human Rights, 'Sector-wide Risk Assessment: Information and communication technology (ICT) – Salient Issue Briefing: Child rights', IAHR, 2022.

170 See: Verizon, 'Strategic Human Rights Impact Assessments', 2022; AT&T, 'Issue Brief: Safeguarding children', 2022.

171 Heinsbroek, Sara, and Hester Holland, 'Child Labour and Dutch Institutional Investors: A study on incorporating child labour in responsible investment', VBDO and Work: No Child's Business Alliance, Utrecht, The Netherlands, November 2021, p. 5.

172 United Nations Children's Fund, 'Tool for Investors on Integrating Children's Rights into ESG Assessment', UNICEF, 2021; 'Investor Guidance on Integrating Children's Rights into Investment Decision Making', Sustainalytics and United Nations Children's Fund, Hyllested, Ida, and Tytti Kaasinen, September 2019.

173 Investor Alliance for Human Rights, 'Salient Issue Briefing: Child rights', IAHR, 2022.

4.6 Governmental and legal action: Building a "smart mix" of measures with attention to children

The trend towards **a stronger "smart mix" of mandatory, voluntary, national and international measures for achieving business respect for human rights and involving multiple stakeholders**, as called for in the UNGPs,[174] is beginning to be seen in action for children's rights. Voluntary and single-issue measures still predominate, but there is new activity by States and other bodies.

Measures on mandatory human rights due diligence, for example, explicitly refer to child labour in some countries, including legislation adopted in Germany (2021), though this is the only child rights issue directly mentioned.[175] Due diligence legislation in the Netherlands and Switzerland both focus on child labour as an explicit child rights impact.[176]

The Dutch legislation is complemented by the government-led voluntary covenant approach (*see page 25*). Each agreement is different and each gives children's rights varying degrees of visibility: The Responsible Gold Agreement, for example, refers to the CRBPs; the Sustainable Garments and Textile Agreement made eliminating child labour a priority; and the Agreement on International Responsible Investment in the Insurance Sector went furthest, offering a toolkit for ESG on children's rights.[177]

Some governments have also developed voluntary standards in cooperation with industry. For example, the Canadian Government, as part of the Voluntary Principles Initiative, led a multi-stakeholder industry working group that developed a checklist and guidelines on children's rights and security for extractives companies.[178]

In Latin America there is an emerging pattern of legal action. For example, recent judgements by the Inter-American Court of Human Rights address the protection of children's rights in the context of business activities, drawing on state obligations under the American Convention on Human Rights and the Convention on the Rights of the Child.[179]

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174 Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights', Commentary on Principles 3 and 10, OHCHR, New York and Geneva, 2011, pp. 5, 12.

175 Supply Chain Due Diligence Act (Germany), 2021.

176 Child Labour Due Diligence Act (Netherlands); Ordinance on Conflict Minerals and Child Labour (Switzerland).

177 Agreement on International Responsible Investment in the Insurance Sector, ESG Investment Framework for the theme: Children's Rights (Netherlands), Version 2020.

178 UNICEF Canada, 'Child Rights and Security Checklist', 2017; United Nations Children's Fund, 'Child Rights and Security Handbook: An implementation companion to the Child Rights and Security Checklist', 2018.

179 Inter-American Court of Human Rights, Case of the Hacienda Brasil Verde Workers v Brazil (Judgment of October 20, 2016), and Case of the Workers of the Fireworks Factory in Santo Antonio de Jesus and their Families v Brazil (Judgment of July 15, 2020).

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CHAPTER 5: PROGRESS ON SPECIFIC CHILD RIGHTS THEMES

This chapter offers reflections on progress related to four established and emerging child rights themes, which were selected to highlight:

- Persistent dominance in serving as the primary example of a children's rights issue among businesses (child labour);
- The importance of recognizing the way that business conduct in relation to adults impacts children (decent work and family-friendly policies);
- The unrealized potential of the current approach (child safeguarding); and
- The strategic significance of the topic as it permeates both business practices and everyday life (children and the digital environment).

5.1 Eliminating child labour

Preventing and mitigating child labour requires States and businesses to fulfil their duty to protect and responsibility to respect children's rights, respectively. This necessitates collective and complementary action by government and business, collaboration between businesses, and action by civil society, which is an important part of the mix. The UNGPs and multiple guides to addressing child labour articulate these complementary roles.[180]

Business practices and operations have a complex relationship with child labour. Many companies report that they have a child labour policy, which at a minimum is likely to declare a company's prohibition of hiring children in its operations and/or supply chain. Some policies may go on to pledge to remove child labour from workplaces and supply chains.

If **based on the UNGPs, the policy is likely to involve due diligence and provide remediation.** The GCF benchmarking data, however, demonstrate the gap between having a policy on child labour and implementation of due diligence and remediation to address it. This suggests that most business action on child labour is driven by legal compliance rather than implementing action to achieve respect for children's rights.

One corporate development during recent years is the creation of mechanisms for identifying, monitoring and remediating child labour, mainly by businesses operating in sectors that have come under the spotlight for having a child labour problem. Some of the most advanced mechanisms have been developed in the cocoa sector, with support from the International Cocoa Initiative.[181]

There are multiple issues around the scope and structure of monitoring and reporting schemes and their relationship with other systems established for child protection. An important lesson from the development of child protection systems in weak institutional settings is that systems based on certain categories of child or certain forms of abuse are often ineffective and discriminatory. In business-led initiatives this could take the form of programmes that exclusively address children working in a specific sector while ignoring children in the broader community and risking the displacement of children from one sector to another.

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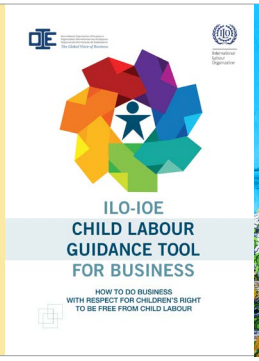
180 See, for example: Alliance 8.7 Knowledge Hub, 'Delta 8.7'; International Labour Organization and International Organisation of Employers, 'ILO-IOE Child Labour Guidance Tool for Business', ILO, Geneva, 15 December 2015; UNICEF Child Rights and Business, 'Child Labour and Responsible Business Conduct: A guidance note for action', United Nations Children's Fund, Geneva, June 2022.

181 International Cocoa Initiative, 'Effectiveness Review of Child Labour Monitoring and Remediation Systems in the West African Cocoa Sector', July 2021.

Guidance: ***Child Labour Guidance Tool for Business*** (2015) and ***Child Labour and Responsible Business Conduct: A guidance note for action*** (2022) outline how businesses can address child labour effectively and sustainably.



Good schemes, on the other hand, bring together company-specific due diligence and action in ways that are coordinated with other actors and are integrated with public systems. This could include, for example, sharing data to inform design, targeting and monitoring of public policies and programmes, and using public services for the implementation of prevention, mitigation and remediation interventions when they are available, including by funding those interventions. The fundamental issues are the degree of inclusivity – and the degree to which they are framed by due diligence premised on saliency. Area-based approaches are more effective in protecting children than those framed by the business sector.

A company that recognizes risk of child labour in its operations or supply chains might not consider that it needs to undertake more comprehensive child rights due diligence. However, child labour may be only the tip of the iceberg. The causes of child rights abuses are generally interconnected and manifest in multiple ways. Often they are deeply embedded in the social, economic and institutional conditions in which businesses are operating.

Other issues, such as child marriage, migration or sexual exploitation, may be caused by the same factors that lead some children into labour, and business activity may be contributing to them. For example, poverty is a main driver of both child labour and child marriage, and purchasing practices, wage structures and employment terms and conditions can be instrumental to causing poverty.

Success in eliminating child labour, including removing it from operations and supply chains, requires a comprehensive approach to assessing and addressing business adverse impacts on children. Narrowly defined due diligence focusing only on child labour is not a sustainable pathway to preventing or eliminating child labour or other forms of children's rights abuse. It also requires business action to integrate with broader multi-stakeholder initiatives to build systems that ensure protection and access to services, including education and social protection.[182]

Success in eliminating child labour requires a comprehensive approach to assessing and addressing business adverse impacts on children. Narrowly defined due diligence focusing only on child labour is not a sustainable pathway to preventing or eliminating child labour or other forms of children's rights abuse.

Once saliency has been established, prioritization is about sequencing the allocation of resources – that is, working out where to put the greatest effort first, before then moving onto other impacts of lesser salience. **When businesses focus on the most salient issues in a way that drives sustained prevention, this creates the pathway to bring business human rights due diligence, public policy and international development together with the greatest efficiency.**

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182 UNICEF Child Rights and Business, 'Child Labour and Responsible Business Conduct: A guidance note for action', United Nations Children's Fund, Geneva, June 2022.

5.2 Supporting family-friendly business policies and practices

More companies and governments are recognizing the way that working conditions and employment practices not only affect adults, but also have significant indirect impacts on children. The difficulties of balancing work and caregiving have been pointedly exposed by the COVID-19 pandemic, prompting a rethink of workplace cultures in many high- and middle-income countries.[183] It has become clear that there is often a strong business case for good family-friendly policies, with data pointing to lower turnover rates, lower absenteeism and higher productivity among workers.[184] The form and scope of family-friendly policies also provide an example of the relationship between legislation and implementation.

Sorwathe: Public-private collaboration with potential for scale

Sorwathe, which is one of the largest tea producers in Rwanda, employs approximately 2,285 workers per day and 6,500 tea farmers organized under cooperatives depend on the factory. About 9,140 families from the surrounding communities are benefiting socially and economically from the tea factory.

In close collaboration with UNICEF, the company has been able to establish four early childhood development (ECD) centres around the areas covered by the tea plantations and has also constructed eight preschools in the communities surrounding the tea factory. Mothers can leave their children in the care of the trained caregivers while they tend to their work in the nearby tea plantations and at the factory. The child-friendly facilities offer a safe and convenient environment for the children to rest, play and learn while their parents work.

Successful piloting by Sorwathe created the opportunity for UNICEF to scale up this initiative. Along with the Government of Rwanda through the National Agricultural Export Development Board (NAEB) regulatory body, UNICEF has supported expansion of ECD centres in all tea companies and has also supported the establishment of ECD centres in the mining and rice-growing sectors.

Family-friendly workplace policies and practices are integral to decent work. They include:

- Paid parental leave
- Living wages that cover family costs;
- Access to quality health care;
- Paid sick leave;
- Breastfeeding and nutrition support;
- Child benefits and accessible and affordable quality childcare; and
- Flexible working arrangements, regulations on overtime and decent working hours.

But despite a lot of attention from both regulators and businesses over the past five or so years, the gaps are still significant.

A survey of both multinational enterprises and small and medium-sized enterprises in 14 countries found that paid maternity leave was the most widely implemented family-friendly policy, although its duration and remuneration were often inadequate in terms of the 18 weeks recommended by the International Labour Organization.[185] The length of maternity leave typically follows the standards defined by national legislation. Fewer than half of businesses provide paternity leave, and even when it is offered the duration is often very limited. Only 39% of surveyed businesses offered any support for breastfeeding, and when they did it was usually in the form of breaks. More comprehensive programmes to support lactating mothers were absent.

Affordable and accessible quality childcare was the least implemented policy, with cash support the most common arrangement. Significantly, there are huge gaps in parenting support programmes for families of workers in the informal economy.

183 Beck, Julia, '4 Strengths of Family-Friendly Work Cultures', Harvard Business Review, 14 September 2020.

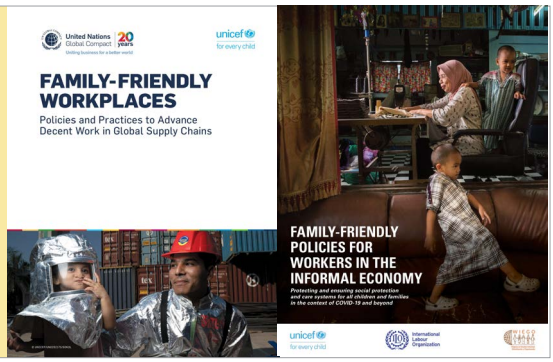
184 See, for example: United Nations Global Compact and United Nations Children's Fund, 'Family-Friendly Workplaces', UN Global Compact and UNICEF, 2020.

185 ILO's Maternity Protection Convention, 2000 (No. 183) defines a minimum international standard of 14 weeks paid maternity leave while ILO Maternity Protection Recommendation, 2000 (No. 191) suggests that maternity leave should be 18 weeks. United Nations Children's Fund, 'Family-Friendly Policies: A global survey of business policy', Working Paper, UNICEF, Geneva, January 2020, p. 9.

Affordable and accessible quality childcare was the least implemented policy, with cash support the most common arrangement.[186] Close to 60% of the multinational enterprises reviewed had a public policy on parental leave, but less than 30% included childcare – which might incorporate onsite childcare, partnerships with offsite providers, support to community-based models, etc., as well as childcare subsidies to workers – or breastfeeding provisions in their company policy. Where present, these provisions are mostly limited to headquarter offices. Furthermore, policies are often restricted to certain categories of workers, excluding those who have short-term contracts or are not formally designated as "staff."[187] Significantly, there are huge gaps in parenting support programmes for families of workers in the informal economy.

Multinational enterprises that may have family-friendly policies frequently fail to embed them in their supply chain standards and frameworks. World Benchmarking Alliance findings in 2020, for example, showed that of the 36 apparel and footwear companies analysed only one explicitly set supplier requirements for maternity leave provisions.[188]

Guidance:
Family-Friendly Workplaces: Policies and practices to advance decent work in global supply chains (2021) and ***Family-Friendly Policies for Workers in the Informal Economy*** (2021) provide recommendations and guidance for governments and businesses.



Business action is lagging on workplace challenges such as occupational safety and health, environmental pollution, and child safeguarding, as well as efforts that recognize wages can have significant impacts on living conditions and access to basic services for children.

On the regional level, Latin America has shown some progress in recent years, for example: Argentina has been a pioneer of family-friendly policies and practices, with initiatives going back to 2013; some businesses in Paraguay have introduced lactation rooms and workplace crèches during the past two years; and parental leave is being extended in Colombia and the Dominican Republic.

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186 Ibid., p. 7.

187 Ibid., p. 9.

188 World Benchmarking Alliance, '2020 Gender Benchmark Baseline Assessment', 27 September 2020.

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5.3 Child safeguarding

In some jurisdictions **child safeguarding is a cornerstone of public policy** approaches for child protection. The articulation of a legal duty of care for institutions such as state and private schools, sports clubs, social services, local government and other public sector institutions that come into contact with children is a key element. In the United Kingdom, for example, this includes an institutional requirement to set up mechanisms to prevent and respond to allegations of abuse. Companies such as the LEGO Group, Pearson and Telia, have voluntarily pioneered safeguarding approaches in ways that translate elements of the CRBPs into concrete action.

Child safeguarding in business is in its infancy and there remain important lessons to be learned and standards to be applied based on international action against all forms of child abuse. These would include, for example, age standards that do not allow national law loopholes on ages of consent, which in some jurisdictions can be too low.

Research for this report did not find a legal requirement for business child safeguarding that is equivalent to the requirements being created in some jurisdictions for public sector institutions or non-governmental organizations. Given the degree to which many businesses come into contact with children, this appears to be a significant gap. Safeguarding by business is an approach that merits much greater regulatory and business attention.

Telia's journey

After a materiality assessment in 2015, Telia recognized that impact on children was important to many of their business stakeholders and that online safety, preventing against adverse online impacts and empowering children through digitization were significant issues.

In 2016, the company committed to the Child Rights and Business Principles (CRBPs) and, working with Save the Children's Centre for Child Rights and Business, carried out an initial Child Rights Impact Assessment. This led to the definition of child rights as a specific company sustainability focus area. This has involved making children an explicit set of stakeholders, and identifying important areas for development, assessments, compliance mechanisms, policy reviews, risk analysis and reporting.

The company regularly engages with children through the annual Children's Advisory Panel to better understand the opportunities and challenges children are facing in their online lives. In addition, Telia collaborates with children's rights organizations to provide specialist expertise. In 2022, the company began a new impact assessment using the MO-CRIA* framework developed by UNICEF.

This work is integrated into the Telia Board oversight of sustainability and is led by a Group Executive Management team member. There are responsible children's rights leads executing the work in all of Telia's markets. The company has taken a mainstreaming approach to safeguarding, integrating children's rights aspects into existing policies ensuring mainstreaming across company processes.

For more information on Telia, see the Annual and Sustainability Report 2021.

* UNICEF, 'MO-CRIA: Child Rights Impact Self-Assessment Tool for Mobile Operators', 2nd edition, 2021.

5.4 Addressing child rights in the digital environment

When the Children's Rights and Business Principles were published, Facebook (now Meta) was only eight years old, Snapchat less than one year old, and TikTok would not be released for another four years. The speed at which companies in the internet value chain have grown foreshadows some of today's challenges, including the fact that some legislative frameworks are not fit for the digital age.[189]

2019 marked the 30th anniversary of both the World Wide Web and the Convention on the Rights of the Child, inviting reflection on how profoundly childhood has changed over recent decades due to the proliferation of digital technologies.

In 2020 both the opportunities and the risks for children associated with meaningful access to digital connectivity and devices came under a powerful spotlight, as 150 countries fully closed their schools in efforts to limit the spread of COVID-19.[190]

In another landmark, the Committee on the Rights of the Child issued General comment No. 25 on children's rights in relation to the digital environment in March 2021, stating that "the rights of every child must be respected, protected and fulfilled in the digital environment" and clarifying the duties of States, including in relation to the impact of business.[191]

Against this backdrop, has the business world stepped up to the plate and truly integrated children's rights within its digital practices over the past decade?

Individual companies as well as industry platforms have taken aim at challenges relating to child online protection and wider online safety issues. The Tech Coalition's 'Voluntary Framework for Industry Transparency'[192] and the Fair Play Alliance's 'Disruption and Harms in Online Gaming'[193] illustrate this trend.

"Businesses should respect children's rights and prevent and remedy abuse of their rights in relation to the digital environment. States parties have the obligation to ensure that businesses meet those responsibilities."

– Committee on the Rights of the Child, General comment No. 25 (2021), para. 35

The LEGO Group

The LEGO Group is committed to implementing the Children's Rights and Business Principles across the whole value chain.

The LEGO Group's policies cover responsible marketing to children, child safeguarding, digital child safety and the Responsible Business Principles, which set minimum expectations and best practices for protecting children, workers and the environment, including guidance dedicated to family-friendly policies throughout the supply chain. These policies guide the LEGO Group's work to continually develop and implement systemic child rights due diligence, which includes impact assessments at global and local levels and integrating and reporting on findings across the whole value chain.

The LEGO Group's strong focus on child rights and safety in the digital environment goes beyond protecting children online and extends to empowering children and families to become responsible digital citizens; providing them with playful learning experiences which help them learn good digital habits and thrive online.

189 WeProtect Global Alliance, 'Global Threat Assessment 2021', p. 29.

190 UNICEF Data, 'COVID-19 and School Closures: One year of education disruption', United Nations Children's Fund, New York, March 2021.

191 Committee on the Rights of the Child, General comment No. 25 (2021) on children's rights in relation to the digital environment, CRC/C/GC/25, United Nations, 2 March 2021, para. 4.

192 Tech Coalition, 'TRUST: Voluntary Framework for Industry Transparency', June 2022.

193 ADL Center for Technology and Society and Fair Play Alliance, 'Disruption and Harms in Online Gaming', December 2020.

However, insights and findings from various industry benchmarks paint an unflattering wider picture of the progress made so far.

In 2022 the Global Child Forum "Tech & Telecom Deep Dive" found an overall discrepancy between policies and commitments versus disclosure of how these are enforced or carried out, including whether they are having impacts on children.[194] Out of the three impact areas that were studied, "Marketplace," which captures some impacts in the digital environment, had the lowest scores. While 64% of the companies assessed had a general policy on product safety, only 20% specifically mention children. Despite the largely poor performance in this impact area, the findings do reveal differences between industries, with telecommunications taking the lead.

The Global Child Forum assessment **suggests that most businesses do not fully accept that children – whether intended or unintended users of products and services – are a distinct stakeholder group that demands serious consideration.**

The World Benchmarking Alliance's inaugural Digital Inclusion Benchmark 2020 corroborated this appraisal, concluding that although all technology companies should be concerned with children's safety, only 16 out of 100 companies assessed demonstrate a high-level commitment to child online protection.[195]

These disappointing results extend to broader performance on business and human rights in the digital environment, which is telling of the sector's baseline readiness to incorporate rights-based approaches. For example, the Digital Inclusion Benchmark in 2021 found that only 15 out of 150 companies assessed disclose that they have basic processes in place to identify, assess and integrate human rights risks and impacts in their business practices.[196]

Notwithstanding lacklustre industry performance to date, recent years (and even months) have seen acceleration by governments and some regional bodies towards regulation of industry to protect human rights, including children's rights, in the digital environment.

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194 Global Child Forum, 'The State of Children's Rights and Business 2022: Tech & telecom'.

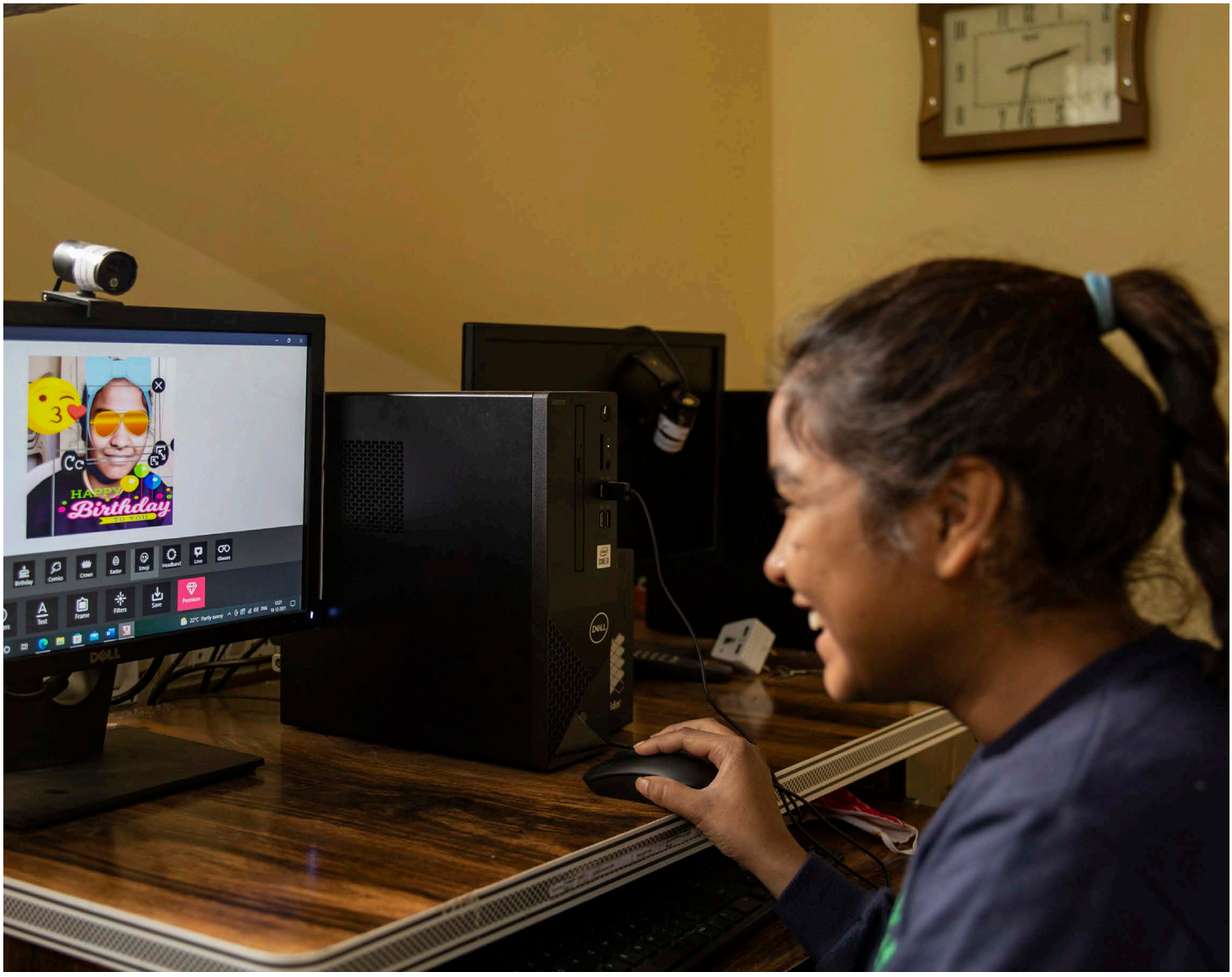
195 World Benchmarking Alliance, '2020 Key Finding: Online child safety should be a concern of all technology companies, but it isn't'.

196 World Benchmarking Alliance, '2021 Digital Inclusion Benchmark', December 2021.

The Big Tech Scorecard released in 2022 by Ranking Digital Rights, which evaluated 14 digital platforms[197] on hundreds of indicators relating to corporate governance, freedom of expression and information and privacy concluded that despite increased public scrutiny, Big Tech platforms fail to disclose adequate information about how they conduct human rights due diligence, moderate online content, test and deploy algorithmic systems, and use personal data.[198] However, Ranking Digital Rights also reports that some progress can be traced since the inaugural index in 2015, for example, many companies have reportedly enhanced their corporate governance practices.

Notwithstanding lacklustre industry performance to date, recent years (and even months) have seen acceleration of action by governments towards regulation of industry to protect human rights, including children's rights, in the digital environment.

For example, the EU Digital Services Act (DSA), adopted in 2022, sets new rules on how Europe regulates 'intermediary services' such as social networks and online marketplaces. The Act has numerous implications for children, including a ban on targeted advertising aimed at children and a requirement for risk assessments by "very large" online platforms for impacts on rights, including children's rights.[199] The DSA is expected to have far-reaching ripple effects, potentially setting a new global standard.[200]



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197 The 14 digital platforms evaluated are: Twitter, Yahoo, Microsoft, Google, Meta, Apple, Kakao, Yandex, Baidu, VK, Alibaba, Samsung, Amazon and Tencent.

198 Ranking Digital Rights, 'The 2022 Ranking Digital Rights Big Tech Scorecard: Executive summary'.

199 European Commission, 'The Digital Services Act: Ensuring a safe and accountable online environment'.

200 Vosloo, Steven, 'EU Digital Services Act: How it will make the internet safe for children', World Economic Forum, 20 June 2022.

Other examples have also been influential, including the United Kingdom's Age-Appropriate Design Code, issued in 2020. The Code sets out 15 principles, including prioritizing best interests of the child, data minimization and privacy-by-default settings for any services likely to be accessed by children.[201] In September 2022, the California Age-Appropriate Design Code Act (inspired by the UK Code) was signed into law and will become effective in July 2024. The act will impose new obligations on companies aimed at better protecting children's privacy and online safety.[202]

Unanswered questions on how to strike the right balance between risk and opportunity, safety and privacy, or protection and empowerment remain. But there is a growing consensus that these regulatory efforts, in addition to voluntary industry initiatives, are vital to delivering consistent and substantial improvements in business practices.

PLDT Inc.'s child rights journey

PLDT Inc. (PLDT)[203] is the Philippines' largest, fully integrated telecommunications and digital services provider. The company's journey on child rights began with a focus on preventing online child sexual exploitation and abuse (OCSEA) in the Philippines. As the company's awareness of the issue of online exploitation and abuse grew, it embarked on a series of stakeholder consultations to investigate how child rights were otherwise impacted in the digital environment. The aim was to develop multi-pronged risk management of OCSEA and other online harms.

As a consequence of these initial actions on child rights, the company decentralized its relevant efforts and formed a collaborative cross-functional team to ensure alignment of child rights and safeguarding endeavours across different teams and functions. Senior management support and direction, notably from the PLDT Chairman of the Board and from the PLDT President and Chief Executive, was a significant driver to ensure that child rights were recognized as a key focus for the company.

In early 2021, PLDT Inc. piloted the updated version of the Child Rights Impact Self-Assessment Tool for Mobile Operators (MO-CRIA) within its businesses – mobile operations and fixed line, as applicable – and provided feedback to UNICEF on the practical use of the tool. The MO-CRIA self-assessment process offered a framework to PLDT to map out the expansion of the integration of child rights into more operational areas of the company, including its value and supply chain management.

201 International Commissioner's Office, 'Introduction to the Age Appropriate Design Code'.

202 California Legislative Information, AB-2273 The California Age-Appropriate Design Code Act (2021-2022).

203 Reference to PLDT, Inc. includes PLDT and Smart.

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CHAPTER 6: CHARTING A COURSE TO ACCELERATE ACTION IN THE NEXT DECADE

The ecosystem in which business activity takes place involves relationships between a range of actors, including governments, investors and financiers, and individuals and groups affected by business. Such relationships are also carried out within and between the framework of laws, practices, social norms and other elements. Accelerating the integration of children's rights into responsible business conduct involves coherent action across this entire system.

Chapter 6 starts by identifying three crucial threads of work across a continuum of business action, which is followed by an outline of the work that is needed in government and business systems to enhance both due diligence and access to remedy. It then moves on to illustrate how children and all marginalized groups could be brought to the forefront of action by all parties with the aim of ensuring that human rights and child rights are fully integrated.

6.1 Laws, standards and relationships frame three interdependent strands of action

It is possible to define three interdependent strands of action involving institutions, linked in relationships framed by laws and standards. Each strand is complementary and all three are necessary for improving the quality of action for children and the acceleration of implementation at scale. These strands should work together and reinforce each other.

The first strand involves direct implementation of measures by businesses, whether based on voluntary action or because of mandatory requirements. The core element is comprehensive human rights and environmental due diligence that integrates child rights. This seeks to assess impacts across operations and value chains, establishes saliency, and leads to changing practices to address the most challenging issues for children.

Implementation over the past decade has contributed to greater understanding of what works, and of unintended consequences when initiatives are built around single issues. Typically, this strand should be integrated into wider action for human rights and sustainability. Employer and business member organizations and platforms can play a key role in promoting business action and knowledge, with some sectors developing sector-wide standards and methodologies.

The second involves a deeper and more systemic approach to the enabling environment of doing business. The State is critical – and contemporary movement towards legislation that defines mandatory human rights due diligence is an important opportunity.[204] The European Union's draft Directive to introduce mandatory human rights and environmental due diligence is a significant contemporary example[205] and will have global implications. But acceleration also requires other regions to explore the same path.

204 See, for example: UN Working Group on Business and Human Rights, 'Guiding Principles on Business and Human Rights at 10: Taking stock of the first decade', Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/47/39, United Nations, 22 April 2021.

205 Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, adopted 23 February 2022.

Furthermore, state action cannot be reduced to due diligence legislation. Where there are systemic adverse business impacts on children legislative and regulatory action may be the most effective mechanism. There is, for example, little evidence that voluntary measures on the composition, marketing and sale of unhealthy foods have been effective in safeguarding public health.206 UNICEF's own research, already mentioned, found that businesses rarely implement family-friendly policies that go beyond the requirements of national law, even when these laws did not meet international standards.207

Another important part of influencing the conditions of doing business is action by responsible investors and financial institutions to include child rights considerations in ESG assessments informing investment decision-making – and to undertake stewardship activities to improve the child rights performance of their investee companies.

An important part of influencing the conditions of doing business is action by responsible investors and financial institutions to include child rights in ESG assessments that inform investment decision-making – and to undertake stewardship activities to improve the child rights performance of their investee companies.

ESG benchmarking initiatives and rating agencies should be more explicit on using indicators that shows company impact and performance to address harmful impact on children. And it is essential that this be based on measuring outcomes for rights holders rather than the presence or absence of policies and other inputs or outputs made by businesses. All this needs to be underpinned by disclosure of information on children's rights by the companies themselves, and sustainability reporting standards have an important role in ensuring that disclosures on children's rights performance become commonplace.

The third strand is a more rigorous linkage between preventing and mitigating business adverse impacts and wider policy and practice for children in such areas as health, nutrition, education, child protection or climate action. One example is bringing together business and government agendas on family-friendly working terms and conditions. Family-friendly business policy and practice contributes to improved outcomes for children in early childhood development, child labour prevention and child health, among others. In effect, this is the explicit connection of protecting and respecting human rights with achieving SDG goals and targets.[208]

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206 Erzse, Agnes, et al., 'A Realist Review of Voluntary Actions by the Food and Beverage Industry and Implications for Public Health and Policy in Low- and Middle-Income Countries', Nature Food, vol. 3, August 2022, pp. 650–663.

207 United Nations Children's Fund, 'Family-Friendly Policies: A global survey of business policy', Working Paper, UNICEF, Geneva, January 2020, p. 9.

208 See: Blackwell, Sara, 'The Human Rights Opportunity: 15 real-life cases of how business is contributing to the Sustainable Development Goals by putting people first', Shift Project Ltd., New York, August 2018.

As things stand, much of this third kind of work has taken place independently of human or child rights due diligence and is based on other considerations. Such work is important for children, but for it to be accelerated and sustained over time it also needs to address salient business impacts through explicit human rights methodologies. Voluntary commitments and contributions by business are welcome and should be promoted, but do not offset causing harm as a result of their activities or business relationships.

6.2 Systems that reach the most marginalized work for everyone

Making children visible in mechanisms and processes for responsible business conduct, including due diligence mechanisms, should be a priority in the decade to come.

Processes should be designed so that inclusion of those most at risk of being marginalized is the basic requirement. This is both pragmatic and principled: If all the groups commonly at risk of invisibility are added together, they effectively make up a majority of the world's population.

While guidance on recognizing the distinct challenges faced by children and other groups at risk of marginalization is a valuable contribution, it is also indispensable to emphasize that implementation mechanisms that are designed to place the most vulnerable – including children – front and centre are mechanisms that work for all. This mirrors the principle of addressing inequity in the development world, where it is now a mainstream tenet that systems that reach the most marginalized reach everyone.

Instead of the most vulnerable needing special provisions, processes should be designed so that inclusion of those most at risk of being marginalized is the basic requirement. This is both pragmatic and principled: If all the groups commonly at risk of invisibility are added together, they effectively make up a majority of the world's population.

Basic design measures should include prominent text about the centrality of the rights of children and other vulnerable groups in the design and implementation of mechanisms, making clear that these are not special measures but **standard requirements**. There should be explicit reference to the UNGPs and the CRBPs, and to relevant bodies of law, such as the Convention on the Rights of the Child and ILO Conventions.

Supporting guidance should clearly explain the rights of children and other vulnerable groups, including describing common causes of harm and how business activity can contribute. How to identify the special challenges facing those most at risk of marginalization needs to be explained as a prominent and introductory part of mainstream guidance offered by regulators or business associations.

With respect of children, this means that due **diligence mechanisms and ESG frameworks** should be designed to ask the right questions as a matter of course about a range of children's issues of the right stakeholders. In relation to children's rights, the right people would include children themselves, parents and caregivers, and other individuals or organizations that can legitimately represent children's interests.

This means facilitating access by children and these other parties to due diligence processes. It means **grievance mechanisms and remediation processes**, for example, being designed to be accessible to children or their legitimate representatives. In relation to children, accessibility is not just about physical accessibility or processes that facilitate child participation but also about timeliness. A child's growth and development do not allow for inappropriately lengthy procedures. All these design elements apply equally to legislation establishing the requirement for business due diligence.

These changes would transform the reach and effectiveness of due diligence and access to remedy for children and others at risk of marginalization.

6.2.1 Governments need to step up for children in legislation on due diligence

Acceleration requires moving beyond leaving an impression that child labour is the primary or sole business issue that is crucial to upholding children's rights, which appears to still inform many legislative developments (*see section 4.1.2*).

The move towards due diligence legislation is a welcome trend. And the EU proposal for a Directive on Corporate Sustainability Due Diligence is an important contemporary opportunity to significantly improve responsible business conduct regionally and globally, influence other legislators, and drive the strengthening of national systems in the countries that are part of companies' global value chains.

The importance of EU processes being well-designed, both in general and in regard to children and other groups in vulnerable or marginalized situations, cannot be overstated. Inadequate processes in a major trading block such as the European Union could potentially set back the effectiveness of business human rights and environmental due diligence for years.

Human rights due diligence is, of course, not just a European issue. Over the next 10 years, the degree to which other jurisdictions also develop consistent and rigorous human rights due diligence regimes framed around the rights of those most at risk of being excluded, including children, will be fundamental to transformative change. It will be important that mechanisms are compatible and coherent.

The trend among governments towards greater interest in mandatory measures is both a sign of their readiness to embrace their duty to protect human rights and a recognition that progress using voluntary means alone has been limited, despite the leadership shown by several companies.

Over the next 10 years, the degree to which other jurisdictions, as well as the European Union, develop consistent and rigorous human rights due diligence regimes framed around the rights of those most at risk of being excluded, including children, will be fundamental to transformative change.

6.2.2 Child rights due diligence throughout the value chain

As described in Chapter 3 of this report, **adverse business impacts on children can happen in myriad ways and at virtually all stages of business procedures. This makes it essential to consider the entire value chain.** For example, marketing and advertising, impacts in the digital environment, product formulation and product disposal should be as much a focus of due diligence as how goods and services are sourced and manufactured or provided.

When companies are taking action to consider the child rights impacts of their marketing and advertising, there is a tendency to focus on content and delivery that is specifically targeted to children. However, as children are also exposed to marketing that primarily aims at adult consumers, child rights impacts need to be understood and addressed across marketing and advertising activities.

Take the example of marketing of food: Processed foods high in sugar and other additives produced by the food and beverage sector are linked to globally rising childhood overweight and obesity, and are often advertised and marketed in ways that are attractive to children and/or seek to influence their parents and other caregivers. However, the impact on children of marketing and advertising damaging products is a gap in action among many consumer-facing companies, as indicated by GCF benchmarks.

6.2.3 Enhancing access to remedy

Access to justice and effective remedies are a critical and integral part of children's rights in the context of business and human rights, and an essential element of responsible business practice. Building and strengthening legal and regulatory frameworks on business conduct – including through mandatory human rights and environmental due diligence laws – must go hand in hand with the development and implementation of mechanisms that are accessible to children and provide effective remedies for abuses of their rights by businesses.

The Committee on the Rights of the Child makes this clear: "For rights to have meaning, effective remedies must be available to redress violations. … Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives."[209]

Guidance: ***Discussion Paper: Operational-level grievance mechanisms fit for children*** (2018) explores how businesses can help children raise grievances effectively.

While companies have a responsibility to provide for, or cooperate in, remediation, including through the set-up of operational-level grievance mechanisms, governments have the primary and non-renounceable obligation to provide effective remedies and reparation for infringements on children's rights by businesses.

Access to justice and effective remedies for children have not been a significant part of most developments highlighted in this report, and yet it is one of the most important areas for accountability. Without accountability, corporate responsibilities and state obligations towards human rights are only partially met.

If an **inclusive, fair and sustainable system** is to be built, there is an urgent need to accelerate action by business and governments in designing and strengthening justice and remediation systems and mechanisms that are accessible and fit for children.

Due to their age and situation, children face particular barriers in accessing justice through both state and non-state mechanisms. Children's evolving capacities are rarely considered in the design and implementation of remedial processes, which may in effect deny them opportunities to seek redress. With respect to the business sector, the power imbalances that often characterize the interaction between companies and the communities in which they operate are exaggerated when it comes to children.

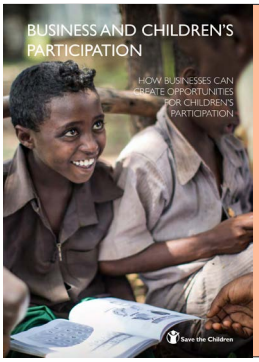
The Committee on the Rights of the Child has identified a number of measures that governments should adopt to remove such barriers.[210] Beyond courts, other institutions and agencies with oversight powers can have a role in monitoring and enforcing children's rights with regard to the business sector as well as providing remedies, such as national human rights institutions and labour inspectorates.

209 Committee on the Rights of the Child, General comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), CRC/GC/2003/5, United Nations, 27 November 2003, para. 24.

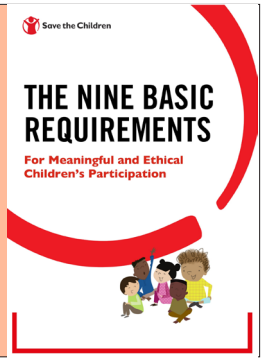
210 Ibid., para. 68.

6.2.4 Stakeholder engagement and meaningful child participation

Stakeholder participation is crucial for the effectiveness of due diligence – including through impact assessment to reveal the issues children experience – and in remediation processes. For both purposes, this includes ensuring the participation of children and those who are able to legitimately speak for them, such as parents, caregivers and appropriate civil society organizations.[211] While child participation may be new for many businesses, it is not new elsewhere and good guidance exists on how to design consultative processes involving children.[212]



Guidance:
Business and Children's Participation: How businesses can create opportunities for children's participation (2015) and ***The Nine Basic Requirements for Meaningful & Ethical Children's Participation*** (2021) were developed by Save the Children to support the child's right to be heard as it relates to the 10 CRBPs and offer a tool for ensuring quality child participation, respectively.



6.3 Accelerating leadership in the financial sector

The power and reach of institutional investors mean that they have extraordinary potential to be leading agents of change by fulfilling the responsibility to respect human rights, including the rights of children, in their investment activities.[213]

A crucial precondition for effective investor action in regard to children is that they, like other actors in the business ecosystem, develop a comprehensive view and understanding of children's rights – including and beyond child labour – and that this guides their stewardship and other actions for responsible business conduct.

Expanding collaboration between investors based on common standards and analysis would enhance clarity for companies on expectations, and the effectiveness and efficiency of stewardship. There is considerable potential to expand collective stewardship initiatives aiming to improve human rights policies and practices of investee companies.

More systemically, acceleration in the financial sector is closely linked to improved sustainability **reporting standards and practices**, discussed in the next section. Finding the balance between systems that allow for comprehensive assessments and making these practical within investment decision-making would be an important measure. Alignment of standards within sustainability reporting, removing lack of coherence and ensuring data on company practices are available to drive child rights analysis by investors would be another significant contribution to the integration of children's rights into ESG assessments.

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211 See: Save the Children Europe and International Commission of Jurists, 'Advancing Child Rights in the Proposed EU Corporate Sustainability Due Diligence Directive: Joint position paper', Save the Children and IJC, Brussels and Geneva, May 2022, p. 6.

212 See, for example: UNICEF Office of Research-Innocenti, Championing Children's Rights: A global study of independent human rights institutions for children, Chapter 7, United Nations Children's Fund, Florence, Italy, 2013, pp. 85–99; United Nations Children's Fund, 'Engaging Stakeholders on Children's Rights: A tool for companies', UNICEF, Geneva, September 2014; Save the Children Sweden, 'A Mapping on Child Participation Initiatives: In public decision making and monitoring processes', 2020; Ethical Research Involving Children (ERIC).

213 See, Goal 1.1: UN Working Group on Business and Human Rights, 'Raising the Ambition, Increasing the Pace: UNGPs 10+ – A roadmap for the next decade of business and human rights', United Nations, Geneva, November 2021, p. II.

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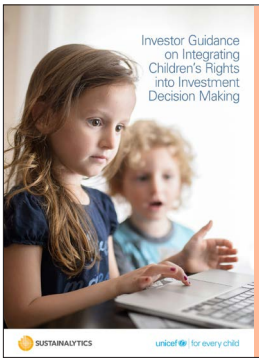

Guidance:
Investor Guidance on Integrating Children's Rights into investment Decision-Making (2019) and ***Tool for Investors on Integrating Children's Rights into ESG Assessment*** (2021) offer guidance on responsible investment and active ownership and on analysing companies in relation to child rights as part of human rights due diligence.

6.4 More effective ESG reporting

Another essential component for accelerated action is significantly enhancing the visibility of children's rights within the social dimension of ESG reporting. While nothing prevents companies from disclosing on their child rights policies and performance,[214] the data examined in section 4.2 show that reporting on actual performance as opposed to policies remains lacking. This points to the necessity of ESG reporting standards that offer an explicit focus on the disclosure of salient child rights impacts and issues.

In many cases disaggregating social reporting standards by age as well as by gender would go a long way towards shining light on multiple issues that affect children. Standards providers such as the Global Reporting Initiative (GRI) and the International Sustainability Standards Board (ISSB) should provide clear guidance on how to disaggregate, with prominent text in the standards that defines this expectation.[215] In addition, GRI has updated its universal reporting standards to align more closely with the UNGPs and the OECD Guidelines for Multinational Enterprises.

214 UNICEF Corporate Social Responsibility Unit, 'Children's Rights in Sustainability Reporting: A guide for integrating children's rights into the GRI reporting framework', United Nations Children's Fund, Geneva, December 2013.

215 See, for example: Eastwood, Sam, et al., 'Business and Human Rights: Revised GRI Standards integrate UN Guiding Principles on Business and Human Rights and foreshadow emerging mandatory human rights and environmental due diligence legislation', Mayer Brown, 12 October 2021.

The European Commission's Corporate Sustainability Reporting Directive envisions the adoption of EU sustainability reporting standards, now being drafted by the European Financial Reporting Advisory Group. The standards will be tailored to EU policies, while building on and contributing to international standardization.[216]

This process offers the European Union an opportunity to exercise leadership on child rights and business, given that it is bound to influence the way the parallel Corporate Sustainability Due Diligence Directive is implemented and is likely to have influence far beyond Europe. Ensuring that EU reporting standards adequately and explicitly capture children's rights is an important near-term issue for acceleration.

Moving beyond audit: At a fundamental level, putting words into measurable action – and moving beyond "tick box" monitoring and reporting – is the cutting-edge issue for ESG for children's rights just as it is for other ESG issues. In general, most companies that disclose do so around their risks and policies but rarely on how company measures are changing lives for rights holders, including children.

While GRI is moving ESG standards further in the direction of assessing impact, there is still a disconnection between ESG reporting and auditing or assessing of suppliers and other business relationships in ways that meaningfully capture impacts on children. When it comes to establishing what is really happening in supply chains, there are significant criticisms of the effectiveness of current audit approaches.[217]

Strengthened ESG, for children as well as for other rights holders, requires that this disjunction is addressed.

6.5 Enhanced action by small and medium-sized enterprises

Given their numbers and the proportion of businesses they comprise, small and medium-sized enterprises (SMEs) are essential to accelerating action to address adverse business impacts on children. The IOE and ILO report that SMEs are often aware of responsible business due diligence standards but lack knowledge of concrete obligations and face challenges in implementing policy commitments.[218]

Research by OECD on human rights due diligence by SMEs in the garment and footwear sector notes that they have lower leverage in supply chains – their size and purchasing volumes represented only a fraction of suppliers' total production.[219] SME due diligence costs are proportionally higher, and they often lack resources and capacity to support implementation. Conversely, more informal processes and management structures compared to multinational enterprises (MNEs) can offer SMEs agility and a more adaptive organizational culture that may enhance the effectiveness of implementation.[220]

Excluding SMEs from mandatory due diligence comes at a cost to regulatory effectiveness and does little to support them in responding to larger companies' demands for responsible business conduct. Regulation, support and capacity-building from government and business associations will be key to enhancing SME adoption of responsible business practices.

216 European Commission, 'Corporate Sustainability Reporting'.

217 See, for example: Short, Jodi L., Michael W. Toffel and Andrea R. Hugill, 'Monitoring Global Supply Chains', Strategic Management Journal, vol. 37, no. 9, September 2016, pp. 1878–1897.

218 International Organisation of Employers and International Labour Organization, 'SMEs and Human Rights: What is the current state of play, what are the opportunities and challenges, what kind of support is needed?', IOE and ILO, Geneva, November 2016.

219 Organisation for Economic Co-operation and Development, 'Introductory Paper on SMEs and Responsible Business Conduct in the Garment and Footwear Sector: Survey results and key considerations', Draft for consultation, OECD, n.d., p. 6.

220 Organisation for Economic Co-operation and Development, 'Background Note on Regulatory Developments Concerning Due Diligence for Responsible Business Conduct (RBC): The role of small and medium sized enterprises (SMEs)', OECD, 2021, pp. 3–4.

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The responsibility to respect human rights, including those of children, extends to all businesses, no matter their size. Both the UNGPs and the OECD MNE Guidelines recognize that the means through which a company meets this responsibility will be proportional to its size, among other factors.[221] Despite challenges to implementation, excluding SMEs from mandatory due diligence expectations comes at a cost to regulatory effectiveness and will do little to support these enterprises in the supply chains of larger companies to address their demands for responsible business conduct.[222]

The OECD points to the benefit of collaborative approaches to due diligence for SMEs. These include industry initiatives that can help enhance leverage, reduce the costs of due diligence through efficiencies of scale, and facilitate access to shared information on human rights risks.[223] Ultimately, regulation, support and capacity-building from government and business associations will be key to enhancing SME adoption of responsible business practices.

6.6 Advancing child rights-based approaches in the digital environment

While there is a long road ahead when it comes to ensuring broad respect for children's rights by businesses operating in the digital environment, there is cause for optimism.

General comment No. 25 provides a compass, unpacking the duties of States and identifying specific actions that should be taken in relation to business impacts of business. This includes requiring businesses to conduct child rights due diligence and to implement regulatory frameworks, industry codes and terms of services that adhere to the highest standards of ethics, privacy and safety in relation to the design, engineering, development, operation, distribution and marketing of their products and services.[224]

> "States parties should require the business sector to undertake child rights due diligence, in particular to carry out child rights impact assessments and disclose them to the public, with special consideration given to the differentiated and, at times, severe impacts of the digital environment on children."
>
> – Committee on the Rights of the Child, General comment No. 25 (2021), para. 38.

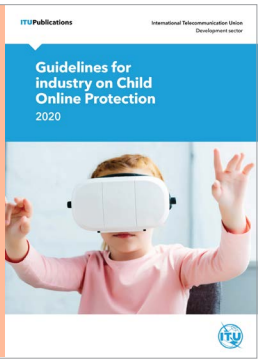
221 See: Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework', Principle 14, OHCHR, New York and Geneva, 2011, p. 15. Per OECD: "The nature and extent of due diligence, such as the specific steps to be taken, appropriate to a particular situation will be affected by factors such as the size of the enterprise, context of its operations, the specific recommendations in the Guidelines, and the severity of its adverse impacts." (Organisation for Economic Co-operation and Development, 'Guidelines for Multinational Enterprises: 2011 edition,' OECD Publishing, 2011, para. 15).

222 Organisation for Economic Co-operation and Development, 'Background Note on Regulatory Developments Concerning Due Diligence for Responsible Business Conduct (RBC)', 2021, pp. 6–7.

223 Organisation for Economic Co-operation and Development, 'Introductory Paper on SMEs and Responsible Business Conduct in the Garment and Footwear Sector', Draft for consultation, OECD, n.d., p. 7.

224 Committee on the Rights of the Child, General comment No. 25 (2021), para. 39.

Guidance:
The ***MO-CRIA: Child Rights Impact Self-Assessment Tool for Mobile Operators – Guide to second edition*** (2021) and the ***Guidelines for Industry on Child Online Protection*** (2020) are examples of tools offering guidance on integrating children's rights into the digital environment.



There is much that companies themselves should do. This includes embedding children's rights by design rather than retrofitting safeguards and other measures.[225] Several frameworks, including the Australian eSafety Commissioner's "safety by design" approach,[226] have emerged to support implementation of this principle.

A suite of recommendations for industry action is captured in guidance such as the International Telecommunication Union (ITU) and UNICEF 'Guidelines for Industry on Child Online Protection', initially released in 2015 and updated in 2020 to reflect the rapid evolution of this field.[227] The Child Rights Impact Self-Assessment Tool for Mobile Operators (MO-CRIA) was also updated in 2021 following its initial development in collaboration with Millicom beginning in 2012.[228]

However, when it comes to implementing concrete measures and delivering positive impacts on children's lives, the need for developing a robust evidence base on "what works" cannot be overstated. Children's own lived experiences and views are a crucial ingredient within this.

These actions and recommendations do not only concern the technology sector. Multiple types of companies across various sectors – from toys to fast-moving consumer goods – are increasingly engaging with children through the digital environment.

Companies must also account for the fact that children who are not direct users of digital technologies may still be affected through their use. The case of children depicted in child sexual abuse materials circulated online is one sharp example.

All companies that target children, have children as end users, or otherwise affect children in the digital environment must prioritize embedding child rights considerations in their policies, practices and activities.

Regarding the priority of ending technology-facilitated child sexual exploitation and abuse, recent analyses of the WeProtect Model National Response implementation provide useful lessons for informing future action by industry. These include calls from countries for common standards or metrics on industry transparency; supporting training and awareness-raising among industry actors; and addressing the need for cross-sectoral dialogue with a view towards creating a common agenda and a clear division of responsibilities.[229]

225 Digital Futures Commission, 'Designing for Child Rights by Design', 5Rights Foundation, 5 July 2021.

226 eSafety Commissioner, 'Safety by Design'.

227 International Telecommunication Union and United Nations Children's Fund, 'Guidelines for Industry on Child Online Protection', ITU, Geneva, 2015; International Telecommunication Union, 'Guidelines for Industry on Child Online Protection', ITU Publications, Geneva, 2020.

228 Pietikainen, Milka, and Amaya Gorostiaga, 'Assessing the Impact of Mobile Network Operators on Children's Rights: The Millicom experience', Millicom International Cellular SA and United Nations Children's Fund, September 2017

229 See: WeProtect Global Alliance and United Nations Children's Fund, 'Framing the Future: How the Model National Response framework is supporting national efforts to end child sexual exploitation and abuse online', May 2022; United Nations Children's Fund, Ending Online Child Sexual Exploitation and Abuse: Lessons learned and promising practices in low- and middle-income countries, UNICEF, New York, December 2021.

Disrupting Harm is the most comprehensive and large-scale research project undertaken to date on online child sexual exploitation and abuse at a national level. The recommendations that it offers for industry include advising companies to ensure that formal reporting mechanisms within online platforms are clear and accessible to children, and to make responding to data requests from the courts and law enforcement a priority.[230]

As children's online experiences are now firmly integrated into their everyday lives, the need to address violence against children in both spaces is increasingly clear.[231] **Among the guiding tenets that have emerged to chart the way forward, a key refrain is that children must not be regarded only as powerless current or potential victims of online risks and harms.** Rather, online services must simultaneously optimize for children's well-being and their right to access information and to participation.

Within the field of internet governance however, the focus has often missed this point.[232] In contrast, the European Union's Better Internet for Kids strategy (BIK+), adopted in 2022, is an example founded on the pillars of protection and well-being, empowerment, and active participation.[233]

Translating these principles into concrete actions and outcomes requires dedicated research. The Responsible Innovation in Technology for Children (RITEC) project was launched in 2022 to develop a framework that maps how the design of children's digital experiences affects their well-being, and to provide guidance on how informed design choices can promote positive well-being outcomes.[234] The views and opinions of children from around the world were the basic building blocks of this framework. The vision is that all companies designing digital experiences accessed by children carefully consider and evaluate how these experiences impact their well-being.

The momentum that has been built over recent years promises to deliver progress in the coming decade – although dedicated efforts are required to ensure this progress is felt by all children globally. As the wheels of innovation continue to turn, fuelling new and emerging business opportunities such as the metaverse and extended reality (XR), continuous vigilance, cross-sectoral action, and a steady supply of high-quality evidence will remain paramount to ensuring the best possible outcomes for children.

If the prevention element of the corporate responsibility to respect human rights is seen through the lens of sustainability – and is to be effective in anything other than the short term – it is necessary to address the root causes of salient human rights abuses to which they are linked.

6.7 Business, children's rights and sustainable development

The UNGPs provide a vital framework for integrating business respect for human rights with sustainable development. Companies should adopt a principled and coherent approach to identifying the SDGs through which they can maximize their contribution to change. Human rights and environmental due diligence, taking action to address salient risks and impacts, tracking and communicating progress, and playing an appropriate role to ensure remedy is available are central components.[235] State-driven mandatory due diligence requirements will be needed if this is to reach scale over the next 10 years.

230 End Violence Against Children, 'Disrupting Harm'.

231 Kardefelt-Winther, Daniel, and Catherine Maternowska, 'Addressing Violence against Children Online and Offline', Nature Human Behaviour, vol. 4, no. 3, March 2020, pp. 227–230.

232 Livingstone, Sonia, John Carr and Jasmina Byrne, 'One in Three: Internet governance and children's rights', Discussion Paper 2016-01, UNICEF Office of Research – Innocenti, Florence, Italy, January 2016.

233 European Commission, 'A European Strategy for a Better Internet for Kids (BIK+)'.

234 UNICEF Office of Research – Innocenti and Western Sydney University, 'Responsible Innovation in Technology for Children: Digital technology, play and child well-being', United Nations Children's Fund, Florence, Italy, 2022.

235 Blackwell, Sara, 'The Human Rights Opportunity: 15 real-life cases of how business is contributing to the Sustainable Development Goals by putting people first', Shift Project Ltd., New York, August 2018.

Without comprehensive human rights and environmental due diligence that explicitly integrates child rights, the chances are that the links between addressing adverse business impacts and wider public and development policy will remain incomplete, and the full transformative potential of business action to address adverse impacts will not be realized.

In practical terms, companies seeking to contribute to the Sustainable Development Goals should start with initiatives that are part of mitigating or preventing risks to children connected with their business – and then look at distinct initiatives that are not connected.

This is closely connected to the implications of the business responsibility to prevent adverse impacts that are directly linked to their operations, products or services by their business relationships, even if the company has not contributed to those impacts (*see UNGP Principle 13*). At minimum, "prevention" means taking action in the immediate or short term, but it is also necessary to take a longer view to address any business activities and relationships that may also be perpetuating, or even benefiting from, the root causes of child rights abuses.

Businesses alone cannot be held responsible for all child rights challenges, though they must take responsibility for adverse impacts on children that their activities cause, contribute to or are linked to in their value chains. It is also true that business has an extraordinarily central role in the social fabric, which means that where to draw the line between responsibilities and voluntary action is not straightforward and will vary according to issues and circumstances.

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If the prevention element of the corporate responsibility to respect human rights is seen through the lens of sustainability – and is to be effective in anything other than the short term – it is necessary to address the root causes of salient human rights abuses to which they are linked.

Action on child labour provides a good illustration of this, but it applies to all issues where business activities and relationships contribute to, or are causal of abuse or the creation of an environment in which abuse can occur. As discussed in this report, the causes of child labour, including poverty and low wages, working conditions and contracting modalities, can all be key factors in perpetuating it. Indeed, business choices about where to operate may be based in part upon taking advantage of low wage settings. Labour informality is another factor.

In this case, simply identifying, removing and remediating child labour is potentially a short-term solution. Unless the root causes that cause child labour are addressed, there is a high risk that the child will end up in child labour elsewhere.

Contributions by businesses to achieving development goals are vital and necessary. But in the first instance, where there are salient impacts affecting children, company efforts to address them should go beyond dealing with the symptoms and include investment in addressing their underlying causes. The Children's' Rights and Business Principles encompass the concept of "commitment to support" children's rights, which is inherently positioned within due diligence processes that identify and implement effective pathways to sustained prevention.

Addressing adverse impacts is a core contribution to achieving wider social goals. It is a step towards common understanding of challenges, common theories of change, and the creation of coalitions and collaborations between multiple stakeholders who may not otherwise recognize how they are most relevant to each other.

Lavazza Group: Progress through collaboration

Lavazza Group's journey towards integrating sustainability into its global activities started in 1998 with the launch of community development programmes in coffee-growing communities and the establishment of the Giuseppe and Pericle Lavazza Foundation in 2004. In 2015 the company endorsed the SDGs, joined the UN Global Compact and launched its first sustainability report.

Integrating children's rights more centrally into company practice has involved significant collaborations with Save the Children Italy, the ILO, Oxfam, and other NGOs and institutional partners. Expanding on a long-standing philanthropic collaboration, Lavazza Group worked with Save the Children to review its supplier code of conduct to incorporate explicit references to children's rights.

Implementation of the company's 2019 sustainability plan, A Goal in Every Cup, integrates the 17 SDGs into impact assessments, awareness raising and an internal platform, with priority given to gender equality, decent work, responsible consumption and climate action. Action to achieve SDG target 8.7 has focused on "promoting fair working conditions, the respect of human rights and the eradication of child labour along the supply chain through focused partnerships and projects actively involving suppliers."

In turn, this led to further collaboration with Save the Children on projects in China and Viet Nam.

In particular, an assessment of supply chains from a child rights perspective in Viet Nam has been conducted. Results informed programmes to integrate child rights into company policies, codes of conduct and the development of a Child Labour Prevention and Remediation Policy & Guideline template along the coffee supply chain in the country. Industry-wide workshops in Viet Nam continued in 2022 to raise awareness of coffee production stakeholders on how to eliminate child labour and support child rights through the development of decent work for youth.

A key learning from Lavazza Group's engagement has been the value of establishing trusting partnerships with civil society actors – and that effectiveness involves incorporating a children's rights lens into corporate sustainability policies across functions.

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6.8 Collaboration and collective action

The UN Working Group on Business and Human Rights has drawn attention to the need for collective action **to address the systemic challenges that are at the root of many business-related human rights impacts**. Collective action and collaboration increase leverage and build trust, without diminishing or replacing the individual State's duty to protect human rights and the business responsibility to respect them.[236]

There are many examples of collaborative action around children's rights issues. These range from partnerships, such as the NBIM and UNICEF collaboration to convene garment and footwear companies around their impacts on children, to nationally focused efforts to eliminate forced labour and child labour in a specific sector, backed by international cooperation.

One example of this is the collaboration between Uzbekistan's National Commission to Combat Forced Labour and Human Trafficking and the ILO's Third-Party Monitoring Project, which has been monitoring the cotton harvest in Uzbekistan since 2015 under an agreement with the World Bank. Since the reform process in Uzbekistan's cotton sector began, an estimated 2 million children have been taken out of child labour and half a million adults out of forced labour.[237]

The essence of effective and sustainable multi-stakeholder collaboration lies in recognizing the fundamental elements of the human rights-based approach. Initiatives that are not framed around the UNGPs are potentially missing a core tool and approach to deliver at scale over time.

236 See Goal 1.2: UN Working Group on Business and Human Rights, 2021, 'Raising the Ambition, Increasing the Pace', United Nations, Geneva, November 2021, p. II.

237 International Labour Organization, 'Uzbek Cotton is Free from Systemic Child Labour and Forced Labour', ILO News, Geneva, 1 March 2022.

There are also formal and large-scale movements, of which the concerted international effort to eradicate child labour is a good example.[238] **Alliance 8.7** is an important part of this, bringing together governments, unions, international organizations, business platforms, businesses and civil society in a collaborative initiative bringing together the complementary roles of these different parts of society towards a common goal.[239]

In many ways, Alliance 8.7 is a lesson for wider action for children's rights and business. It is rights-based and emphasizes the importance of due diligence. It unites key stakeholders. It aims for both implementation of good practice and appropriate regulation. There is a focus on root causes and knowledge. It has spurred research and exploration on what works well and what less so. It builds the political and substantive visibility of child labour as an issue even further. It has set ambitious targets and dates.

The essence of effective and sustainable multi-stakeholder collaboration lies in recognizing the fundamental elements of the human rights-based approach. Initiatives that are not framed around the UNGPs are potentially missing a core tool and approach to deliver at scale over time.

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238 SDG target 8.7: Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms (UN Sustainable Development Solutions Network).

239 See: Alliance 8.7.

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CHAPTER 7: ADVANCING CHILD RIGHTS AND BUSINESS: CONCLUSIONS AND RECOMMENDATIONS

Charting the Course traces the trajectory of child rights visibility within discourse and action on human rights and responsible business conduct. **The report finds that child rights are often missing – even though a world in which businesses routinely respect the human rights of children would be a world transformed.**

Governments, businesses and investors are making progress to integrate the rights of children into responsible business conduct, but the advances are often incomplete and unsystematic. Although children are core stakeholders for business they are rarely acknowledged explicitly – so their rights remain invisible, even when the rights of adults are acknowledged. And even on issues that are commonly recognized as business-relevant, a conspicuous gap stands between policy rhetoric and implementation.

The literature reviewed for this report also points to another issue which has important implications for all human rights-based responsible and sustainable business conduct., not just that relating to children. There is a tendency for human rights to be conceptualized as one isolated component in a list of issues rather than the overarching framework for addressing all forms of business social and environmental impact. This would suggest that the practical implications of human rights-based approaches have not yet been fully assimilated, even when they are referenced in policy documents.

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Chapter 7 reinforces the report's key messages, summarizes the fundamental conclusions, and offers 12 recommendations for accelerating the integration of child rights – and the visibility of children – in the conduct of responsible business.

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7.1 Conclusions

As underscored in the report, human rights are a precondition for sustainability: Effective environmental action requires a human rights-based approach; justice and equity must form an integral part of the transition to a low-carbon world.

Children are central to this vision. They are bearing the brunt of climate change, and what happens to children today not only influences their development now but helps shape the possibilities for society tomorrow.

Human rights and environmental due diligence is a key mechanism for implementing business respect and a standard of conduct central to a rights-based approach. From a children's perspective, due diligence needs to be framed by a comprehensive understanding of child rights and of the potential and actual adverse impacts of business on children. Remediation is another key component, yet child-sensitive remediation appears to be poorly developed.

Ensuring meaningful child participation in the processes and decisions that affect them, including due diligence and access to remedy, is central to a child rights-based approach. Inclusion should be an integral part of the standard design for mechanisms, frameworks and processes that make visible those most at risk of exclusion, including children.

Businesses, governments and development organizations all have essential, and often interlinked roles. Countries will not achieve the Sustainable Development Goals without major contributions from business. And many businesses are embracing the challenge, for example, by working closely with development bodies in bilateral partnerships and as part of collective platforms focused on health, education and other development challenges.

Public-private partnerships can be a vital part of building the future. But to be truly transformative over time, business respect for human rights, including the rights of children, needs to address salient impacts as the first priority before leading on to voluntary contributions in other ways.

Further, addressing the root causes of the adverse children's rights impact to which business practices are linked creates lasting common interest with the development world. This raises the issue of where the line between business responsibility and obligation and voluntary contribution is crossed, a line that is not clear and which will vary according to the issue and situation. But it also opens the door to new forms of collaboration and collective action to address social goals, based on shared theories of change.

It is clear that voluntary approaches alone will not lead to the required scale of transformative action. Movement towards mandatory human rights and environmental due diligence is an important development and should be embraced globally. But governments also need to step up in other ways, for example, through incorporating human rights obligations into the outsourcing of public services or when pursuing investment objectives when they act as economic actors.[240] And, of course, where particular business practices or products have egregious systemic adverse impact on children, legislation needs to be put in place to outlaw them.

Addressing the root causes of the adverse children's rights impact to which business practices are linked creates lasting common interest with the development world – and opens the door to new forms of collaboration and collective action to address social goals.

The size and global reach of multinational enterprises make them leading actors in the drive for responsible business conduct, and the importance of respecting human rights throughout their value chains makes them key levers for transformation.

However, small and medium-sized enterprises make up 95% of all businesses, and they should not be seen simply as actors in the supply chains of others, leveraged by the influence of larger firms. There is need for greater attention to be paid to developing effective human and environmental rights due diligence and other mechanisms that take into account the more limited capacity to be found in many smaller enterprises. Alongside small and medium-sized enterprises themselves, governments, business associations and investors have critical roles to play in achieving this.

240 See Goal 2.1: UN Working Group on Business and Human Rights, 'Raising the Ambition, Increasing the Pace', United Nations, Geneva, November 2021, p. IV.

There is significant scope for expansion in investors putting in place policies, due diligence and grievance mechanisms aligned with the UNGPs and incorporating better visibility of children, both in their own operations and demanding them in the conduct of investees. Bringing coherence to this across investors through collective stewardship would provide additional weight. It is also necessary to develop a better definition of "social" in ESG, framed by human rights, including the rights of children.

A key feature of adverse business impacts on children is that it often takes place through adverse impacts on parents and caregivers. This adds dimensions to such issues as decent work or family-friendly policies that may not initially be top of mind for businesses and legislators. And it links to the role of civil society.

It is striking that the children's issues most frequently acted on – child labour, online child abuse and to an extent marketing and advertising – are issues that are in the public eye. While on the one hand this points to the slow progress towards due diligence becoming a common driver of business activity, on the other it points to the importance of reputation and the influential role of civil society in making issues visible.

It is striking that the children's issues most frequently acted on – child labour, online child abuse and to an extent marketing and advertising – are issues that are in the public eye. This points to the importance of reputation and the influential role of civil society in making issues visible.

More widespread understanding of the actual and potential adverse impacts of business on children's rights is another essential element. Learning more about "what works" for children (and business) – in other words what actions lead to good outcomes for children – in changing business activities is an imperative.

Business innovation in identifying and sharing "what works" with peers is to be encouraged. Improved tracking of results in ways that allow shared results narratives between businesses, governments and development organizations, based on compatible results frameworks, is central to the ambition of the next 10 years.

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7.2 Recommendations

We are calling on the business world, governments and other stakeholders to raise the visibility and strengthen the integration of children's rights in responsible business conduct over the next 10 years through the following measures:

1. *Listen to children and their legitimate representatives.* Several recommendations below identify the significance of involving children in the design and implementation of due diligence and remediation. However, the issue of listening to children is so important that it deserves its own stand-alone recommendation.
    - Governments, businesses, investors and other relevant actors should be building-in systems to support the empowerment of children to participate in meaningful dialogue with businesses, business associations and regulators on issues that concern them.

2. *Ensure that the basic design standard of human rights and environmental due diligence and other mechanisms and processes for the integration of human rights into responsible business conduct capture the human rights of those most risk of marginalization. This would include children, women, persons with disabilities, indigenous peop*les, national and ethnic minorities, religious and linguistic minorities, migrant workers and their families, and informal workers.
    - Due diligence should be informed by comprehensive understanding and assessment of children's rights throughout the value chain, online and offline, and should include recognition of the principle of the best interests of the child.
    - Prominent text in legislation and guidance should make clear that this is a design requirement. Guidance should offer practical steps on how this can be achieved.
    - Ensure explicit reference to relevant bodies of law, including the Convention on the Rights of the Child and its Optional Protocols, and ILO Conventions No. 138 (minimum age) and No. 182 (worst forms of child labour), among others.
    - Ensure due diligence mechanisms involve the meaningful participation of children, parents and caregivers, and other individuals or organizations that can legitimately represent the interests of children – including in the development of mechanisms as well as their implementation.
    - The consequences for children of adverse business impacts on adults should be a factor in determining saliency.
    - Assessing performance on children's rights should be part of monitoring, evaluation and reporting. It should include tracking the effectiveness of company action in terms of outcomes for children.

3. *Remove barriers to children accessing remedy.*
    - Children should have access to different avenues to seek redress, state-based and non-state-based, judicial and non-judicial. The design and implementation of state and non-state mechanisms for remedy should ensure accessibility for children and their legitimate representatives. This means providing accessible information about the availability of remedial processes, ensuring legal or administrative standing of children and their legitimate representatives, and ensuring that costs, physical proximity, and the timeliness of processes are not barriers to accessibility.
    - Policy and guidance documents relating to remedy should make a clear commitment to children's rights and be explicit about the measures needed to ensure accessibility for children.
    - Children's best interests should be paramount in any remedial process that involves them.
    - Children should be involved in shaping and designing mechanisms for remedy.
    - Children have the right to protection as well as to be heard. Special arrangements for child victims and witnesses in civil and criminal procedures and operational grievance mechanisms should be put in place, ensuring, among other things, confidentiality and privacy.
    - Assessment of performance on children's rights should be part of monitoring, evaluation and reporting.

- Governments should consider the adoption of criminal legal liability, or another form of legal liability of equal deterrent effect, for legal entities, including business enterprises, in cases concerning serious violations of children's rights.

4. *Move beyond compliance. Addressing salient adverse impacts is the essence of the business responsibility to respect the rights of children.* This is the long-term, systematic means of building a sustainable world with business.
   - Policies and performance on children's rights should be owned across all parts of a business and should be a board-level responsibility explicitly integrated into action for sustainability.
   - The first priority for businesses seeking to contribute to the Sustainable Development Goals should be human rights and environmental due diligence, including remediation in cases of violations.
   - Business contribution to achieving the Goals through innovation, assets or resources should be encouraged, but should be premised on discharging the responsibility to address adverse impacts.

5. *Businesses should address the root causes of issues to which they are linked through their activities and value chains.* This should not be taken to mean that businesses are responsible for assuming the duty of governments to protect the human rights of children, or that businesses should be addressing all the causes of all forms of child deprivation or abuse. However, contributing to addressing root causes to which businesses are linked is part of the business responsibility to respect human rights and will make a systematic long-term contribution to sustainable development if taken to scale. It also offers near-term opportunities for effective practical collaboration between businesses, governments and civil society.
   - Due diligence should identify the root causes of adverse impacts on children's rights and especially those to which business activities and relationships are linked.
   - Business, government and civil society should build forms of collaboration based on shared theories of change that identify the complementary roles of each.
   - In principle, business action to address adverse impacts should support or integrate with public services, and not seek to replicate or replace them.
   - In settings where public services are weak, businesses should seek to support their capacity (financially, operationally or technically). Businesses should also share data with local and national authorities to inform the design, targeting and monitoring of public services.
   - Businesses should consider collective action among peers in order to offer solutions at scale.

6. *Take advantage of the momentum towards making measures on business human rights responsibilities mandatory.*[241]
   - Governments should ensure that corporate regulatory frameworks on due diligence, non-financial disclosures, transparency, remediation and legal responsibility effectively integrate children's rights, and are implemented in an accessible and child-friendly manner. Adequate resources and capacity should be allocated to monitoring business implementation, and for state judicial and non-judicial mechanisms providing remedy to children.
   - National governments and regional institutions around the world should work towards introducing mandatory human rights and environmental due diligence, based on the standards defined in the UNGPs, the OECD due diligence guidance for responsible business conduct and the design standards for those at risk of marginalization, including children, put forward in this report.
   - Institutions of the European Union and member States should ensure that the EU Directive on Corporate Sustainability Due Diligence and other relevant legislative reforms currently in progress are designed to be effective in addressing children's rights.

241 See Goal 2.2: UN Working Group on Business and Human Rights, 'Raising the Ambition, Increasing the Pace', United Nations, Geneva, November 2021, p. IV.

- Policy coherence from a child rights perspective means governments ensuring all business-related policy and regulation takes impacts on children into consideration.
- Governments should consider introducing mandatory child safeguarding requirements for business, akin to those in force in some jurisdictions for public services and non-governmental organizations in contact with children.

7. *Investors should step up their leverage.*
   - Investors and other financial sector actors should respect human rights, including the rights of children, by knowing the risks to people connected to their investment activities and showing how they take action to manage those risks.
   - Respect for child rights should become a key part of engagement with stakeholders, including through stewardship activities. Children should be recognized as key stakeholders in investment through its influence on their rights and well-being.
   - Investors should enhance collaboration for collective stewardship on children's rights to build leverage at scale.
   - Investors should actively collaborate with companies, governments, standards bodies, regulators and child rights bodies in the conversation on defining investment useful, relevant, and impactful child rights indicators for engagement.

8. *Develop outcome-oriented ESG for children.* The social elements of ESG require clearer definition. Human rights, including children's rights, are the means through which they should be understood and approached.
   - Children's rights should be articulated as an explicit lens on human rights and ESG in sustainability reporting standards.
   - Core indicators on children should be included in sustainability reporting and ESG assessment initiatives to define minimum common ESG standards on children's rights.
   - All social reporting standards should be disaggregated by age and gender. Standards providers should develop and provide guidance on disaggregation.

9. *Governments, business associations and civil society should develop guidance and tools supporting due diligence and remediation by small and medium-sized enterprises (SMEs) and create mechanisms facilitating implementation.*[242]
   - As governments build proportionality into the design of due diligence and other legislation supporting responsible business conduct, a comprehensive understanding of children's rights should inform analysis of the risk exposure of SMEs, along with geography, business models and sourcing models.
   - Governments and business associations should develop tailored guidance on due diligence and remediation for SMEs that supports awareness and knowledge about the rights of children and other groups at risk of marginalization.
   - Governments should introduce measures to address financial challenges SMEs may have in implementing effective due diligence.
   - Governments and business associations should include impact on the rights of children in training for SMEs on the implementation of due diligence processes.
   - SMEs are encouraged to collaborate with peers both to enhance their responsible business conduct leverage, to reduce operational costs and to identify solutions for adverse impact on children at scale.

242 These recommendations are based on discussion in: Organisation for Economic Co-operation and Development, 'Background Note on Regulatory Developments Concerning Due Diligence for Responsible Business Conduct (RBC): The role of small and medium sized enterprises (SMEs)', OECD, 2021.

10. *International development actors should integrate systemic action on adverse business impact into the wider sustainable development agenda.* Government development strategies and international development organizations should elevate engagement with the world of business beyond individual partnerships on specific challenges, important as these are, to systemic consideration of the role of responsible business conduct built around due diligence in achieving positive outcomes for children.

- Development actors should collaborate with business actors and regulators to promote and support due diligence and other measures for immediate and long-term prevention of adverse impact on children's rights.
- Identifying business adverse impact on children, and solutions thereto, should be part of development organization basic analysis of the situation of children. These analyses should be shared with legislators, regulators and businesses developing and implementing mechanisms for responsible business conduct.
- Where necessary, the business responsibility to respect human rights should be integrated into broader theories of change.
- Development actors, States, businesses and business associations should collaborate to find common frameworks for measuring impact and for defining results narratives.

11. *Improve the evidence base and build capacities for enhanced understanding and knowledge-sharing as an essential foundation of effective action for children.*

- Governments, businesses, industry associations, civil society and academia all have important roles to play in improving and sharing evidence about:

  — Adverse business impacts on children and their root causes;

  — Concrete change measures that businesses can take to most effectively address adverse impacts on children and how these can be integrated into wider measures for sustainable development;

  — What measures work for children – and what do not;

  — The definition of "social impact" in relation to children and how to measure it;

  — Tracking progress in the implementation of child rights-based approaches to responsible business conduct; and

  — Developing coherent and complementary results narratives that focus on outcomes for children.

12. *Towards promoting and supporting the collection and exchange of evidence*:

- Governments should increase their investments in understanding the state duty to protect children's rights and their capacity to deliver on upholding this responsibility in the context of business activities and relationships.

- Relevant stakeholders should develop a collaborative, strategic approach to building capacity to implement measures defined in the UNGPs and other rights-based responsible business conduct guidance that integrate the rights of children and other groups at risk of exclusion as explored in this report.

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GLOSSARY

Best interests of the child: The Convention on the Rights of the Child (CRC), article 3 (1), provides that the best interests of the child will be a primary consideration for States in all actions concerning children. One of the four core principles in the CRC, States are obliged to integrate and apply this principle in all legislative, administrative and judicial proceedings concerning business activities and operations that directly or indirectly impact on children.

Business relationship: The relationships a business has with business partners, entities in its value chain, and any other state or non-state (government or non-governmental) entity directly linked to its business operations, products or services. This includes indirect business relationships in an enterprise's value chain, beyond the first tier, as well as majority and minority shareholding positions in joint ventures.

Child: CRC article 1, defines a child as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."[243]

Child labour: Work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.

This includes work that is mentally, physically, socially or morally dangerous and harmful to children; work that interferes with their schooling; and children working who are under the minimum working age(s) set by national legislation or international standards. *Hazardous work* is inherently or by the circumstances in which it is carried out likely to harm the health, safety or morals of children. The *worst forms of child labour* include hazardous work, trafficking, sexual exploitation, debt bondage, forced labour, the recruitment or use of underage children for security or military purposes, and the production and distribution of illicit substances.

International Labour Organization (ILO) Convention No. 182 bans the worst forms of child labour for every person under 18 years old. ILO Convention No. 138 on the minimum age prohibits child work below the age of compulsory schooling and in all cases below the age of 15 years old.

Child participation: The core means for the realization of the CRC article 12 that establishes the child's right to be heard, one of the four core principles of the Convention. Child participation includes processes that encourage and enable children to articulate and convey their views on issues that affect them; it involves information-sharing and dialogue between children and adults based on mutual respect in an environment that facilitates freedom of expression. Such processes must be authentic, inclusive and meaningful, should recognize the complementary right to protection, and should take into account the evolving capacities of children and enable them to learn constructive ways to influence the world around them. There should be a commitment to consider children's opinions – including girls and boys, the most marginalized, the vulnerable, and those of different ages and abilities. Their views should be respected, heard and taken into account in all decisions and actions affecting them. Participation should not be tokenistic and should not exploit children.

Child poverty: The lack of public and private material resources to realize rights such as those to good nutrition, health, water, education and shelter. If deprived of these rights, children have their childhood robbed from them. Moreover, these deprivations diminish the life chances of poor children and their ability to realize their full potential. These deprivations have devastating, life-long consequences and serious implications for children, for future generations and for societies.[244]

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243 For statistical purposes, UNICEF refers to "adolescents" as aged 10–19 years (UNICEF Data, 'Adolescents', United Nations Children's Fund, New York, April 2022,). Regarding "youth" (or "young people") as noted by the United Nations: "There is no universally agreed international definition of the youth age group. For statistical purposes, however, the United Nations – without prejudice to any other definitions made by Member States – defines 'youth' as those persons between the ages of 15 and 24 years" (United Nations, 'Global Issues: Youth').

244 See: UNICEF Data, 'Goal 1: No Poverty', United Nations Children's Fund, New York.

Child protection: Every child has the right to be protected from violence, exploitation, abuse and neglect of children in all contexts, as expressed in the Convention on the Rights of the Child and other human rights, humanitarian and refugee treaties and conventions. Child protection involves promoting, protecting and fulfilling this right. Building protection systems connecting children to vital social services and fair and accessible justice is a core strategy.

Decent work: Work that is productive and delivers a fair income. Decent work should provide security in the workplace and social protection for families, rights at work, social dialogue, and better prospects for personal development and social integration. People, including young people of working age, should be free to express their concerns, to organize and to participate in the decisions that affect their lives, and have the right to equality of opportunity and treatment.

Environmental, Social and Governance (ESG): The integration of environmental, social and governance factors into the measurement and management of company performance. ESG frameworks demand responsible and sustainable conduct with respect to the environment and all organizational stakeholders, including but not limited to employees, suppliers, customers and communities, in addition to shareholders. ESG is used both by companies to identify, assess and manage their performance and by ethical investors to inform, measure and manage holistic sustainable investment.

Human rights due diligence: A business's ongoing processes for identifying and assessing its actual and potential human rights impact, including on children's rights, integrating and acting upon its findings, tracking its responses and communicating how its impact is addressed, as set out in the United Nations Guiding Principles on Business and Human Rights (UNGPs). Human rights due diligence should cover adverse impacts that the business may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by business relationships.

Just transition: Movement towards a low-carbon economy that encompasses social interventions needed to secure human rights and livelihoods. Ensuring that children's rights are visibly integrated into measures for transition and building the climate resilience of the services on which children depend upon are central to transition being just.

Leverage: The ability of a business to effect change in the wrongful practices of the party that is causing or contributing to an adverse impact on human rights. Where a business has leverage to prevent or mitigate an adverse impact on human rights that is directly linked to its operations, products or services by a business relationship, it should use that leverage. If it lacks leverage, there may be ways to increase it, for example, by offering capacity-building or other incentives, or collaborating with other actors. The business should also consider how crucial the relationship is to the business, the severity of the impact, and whether terminating the relationship would have adverse human rights consequences, following the approach set out in Principle 19 of the UNGPs.

Marketing: Any form of commercial communication or message that is designed to, or has the effect of, increasing the recognition, appeal and/or consumption of particular products and services. It comprises anything that acts to advertise or otherwise promote a product or service. This would include, for example, paying for advertising, product placement, packaging design, brand ambassadors, sponsorship (e.g., of sports or cultural events) and company promotion.[245]

Materiality: The degree of importance of an issue to a defined audience. In the context of business, this may be shareholders alone, or other stakeholders too. The choice of audience or goal dictates the selection of what issues are material.[246]

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245 World Health Organization, 'A Framework for Implementing the Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children', WHO, Geneva, 2012.

246 Shift and Mazars, 'Introduction to Salient Human Rights Issues', February 2016.

Policy commitment: A statement that sets out the business's responsibility to respect rights, including children's rights, as described in the UNGPs. A policy commitment should be approved at the most senior level of the business and be informed by relevant expertise. It should stipulate the business's expectations of personnel, business partners and others directly linked to its operations, products or services. It should be publicly available, communicated internally and externally, and embedded in relevant policies and procedures. It may also include a statement of the business's commitment to support rights.

Remediation: Both the processes of providing a remedy for an adverse human rights impact and the substantive outcomes that can counteract or make good human rights harms that have occurred. State-based judicial and non-judicial grievance mechanisms should provide for the basis of a wider system of remedy. Operational grievance mechanisms, which can provide early-stage recourse and resolution, should be accessible to girls and boys, their families and those who represent their interests, and meet the effectiveness criteria for non-judicial grievance mechanisms set out in Principle 31 of the UNGPs. Where a business identifies that it has caused or contributed to an adverse impact on human rights, it should provide for or cooperate in their remediation through legitimate processes.

Salient human rights issues (saliency): Those human rights at risk of the most severe negative impacts through a company's activities or business relationships. The concept uses risk to people, not risk to the business as the starting point. Saliency therefore varies according to situation and from company to company.[247]

Smart mix (of measures): Per guidance in the UNGPs, States should consider a "smart mix" of national, international, mandatory and voluntary measures needed to effectively foster business respect for human rights.[248]

Survival and development: One of the four core principles in the CRC, article 6 acknowledges that every child has the inherent right to life and that States shall ensure the survival and development of the child. Rights such as social security, health, adequate nutrition and standard of living, a healthy and safe environment, education, leisure and play are all relevant to ensuring the healthy development of each child. Protection from violence and exploitation is also vital to each child's survival and development.

Sustainable development: Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.[249] This brings together economic development, social development and environmental protection.

Value chain: A business's value chain encompasses the activities and relationships that convert inputs into outputs by adding value. It includes entities with which the business has a direct or indirect business relationship and which either a) supply products or services that contribute to the business' own products or services, or b) receive products or services from the business.

Young worker: A child who is above the minimum legal working age and engaged in economic activity; this age group is subject to designation as child labour if the work or working conditions are hazardous.

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247 Ibid.

248 Office of the United Nations High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights', Commentary on Principle 3, OHCHR, New York and Geneva, 2011, p. 5.

249 See: United Nations, Our Common Future: Report of the World Commission on Environment and Development, 1987.

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