

Practical Insights on Business and Children's Rights

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What do the upcoming legislative developments on mandatory human rights due diligence at the European level mean for children's rights?

Seeing it from another perspective, the question is: when does it make sense to see child's rights as human rights, as part of the broader scope? Or when does it make sense to pull it out and give it particular attention? I think there are three reasons why we need to keep child's rights within the central canape of business and human rights: the three I's- Intersectionality, Intergenerationality, and Integration.

(1) **Intersectionality:** biological age is a differentiator, but so is class, race, gender, and other factors. Child rights should align with intersectionality.

(2) **Intergenerational rights:** which are not just about children, they are about generations yet to be born and children becoming adults, so child rights have to position themselves within the discussion about intergenerational justice and that is a complex thing, but it is an important thing.

(3) **Integration:** which is not about mandatory human rights due diligence, but climate, environment, and human rights due diligence. Human rights have to sit within the ESG or some broader framework. The methodology of which no one has yet, I am looking forward to seeing the draft of how scopes 1, 2, and 3 on climate change relate to the difference that we have on business and human rights.

Other things at the EU level such as the EU Financing Report again put business and human rights in broader contexts. There are powerful reasons why children's rights and business and human rights have to sit in broader contexts, but I give you three quick reasons why a

business should on certain occasions look at children's rights as a stand alone:

(1) **Sport:** earlier this year we established the center of sport on human rights in Geneva as a separate organization, and while I was running the center I did get to understand how important child protection issues are in the world of sport. Children are the supply chain of sport. If you think about some sports, like swimming and gymnastics, even at the Olympic level, they are children when they compete. In most sports, children reach a standard or national standard to become an adult, but they are very young when they do that. The number of cases around child abuses, such as in the USA, Afghanistan, Haiti, China, but also issues of coercion are widespread in sport around the world.

(2) **Internet:** we have been talking about Covid-19, mental health, eating disorders, and a very serious upswing on health impacts in relation to Covid-19 around the world.

(3) **Mining, agriculture but also the intersection with child trafficking and child soldiers, etc.:** I think that there are times when we have to take a very specific approach to due diligence. But I do not think that we should focus on children's rights outside of the wider business and human rights approach at the EU or any other level.

Practical perspective- What does it mean to implement human rights due diligence when it comes to children's rights? Can you give us a few examples from practice? How to ensure that children have access to justice for the abuse of their rights by corporate entities and how to remove any additional barriers that they face?

In a situation like the one in which Myanmar is now immersed, we must think about enhanced due diligence based on humanitarian law and international criminal law, and international human rights law. This issue about companies going into high-risk areas, but also pulling out of high-risk areas means that the impact on children needs to be part of that enhanced due diligence as well. I think one of the things that we have not talked about enough in the past 10 years of the UNGPs is economic, social, and cultural rights and business. There is a particular issue around children companies should make sure that the due diligence that they do does not just look at risks, but also at the fulfilment of rights or the absence of fulfilment of such rights even if that is a state's duty. This relates to the issue of businesses that perform public goods: we live in a world where, in many parts of the world, it is not just the governments that provide food, housing, education, health, and water, businesses find themselves in the supply chains as well.

With climate change particularly, food and all essential rights, such as housing will be disrupted. This is a plea for ESC rights. Intergenerational rights and justice, that is different from child's rights. Children are proxies, Greta Thunberg is a proxy not only for the children of today but also for the children of tomorrow. Children can be proxies for generations yet to come, but human rights are very bad at talking about the rights of people yet to be born, the legal focus of human rights is within the individual, with the exception of indigenous rights, one area that always had this intergenerational piece, so let's learn from indigenous rights. In Germany and Wales, they have a Commission on Intergenerational Rights, having very interesting debates on how we represent the rights of people yet to be born when making the decisions of today and that is a real challenge for the human rights community.

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