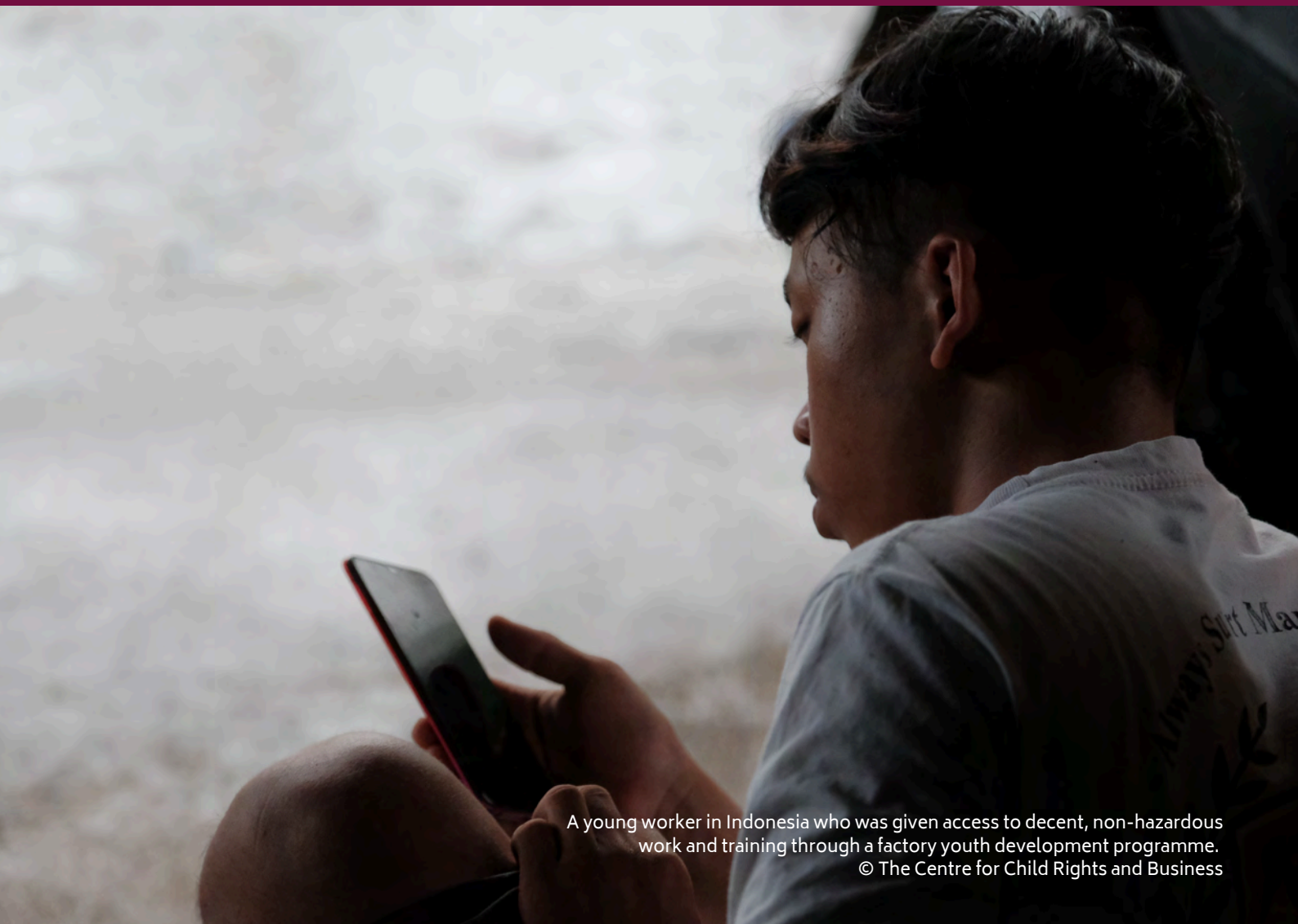


WHITE PAPER

The Suitability of Operational-Level Grievance Mechanisms in Addressing Child Labor



A young worker in Indonesia who was given access to decent, non-hazardous work and training through a factory youth development programme.
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Introduction

Child labor presents a complex and persistent challenge. Despite significant strides in identifying and preventing child labor, effectively remediating the profound harm it causes to the nearly 160 million children affected by this practice remains a formidable task.¹ Central to this challenge is the multifaceted nature of the harm child labor poses, encompassing severe psychological, educational, and developmental impacts that can profoundly alter the course of a child's life. Remedying these harms requires a nuanced understanding of these consequences and a comprehensive strategy that extends beyond immediate compensation to include the best interests of the child to address each of the varied aspects of the initial harm suffered.

The challenge of addressing child labor is further compounded by the need to tackle its root causes, which often lie in entrenched economic and social conditions. Families and communities frequently depend on the income generated by child labor for their survival, creating a complex economic dependency. Remediation strategies must, therefore, be holistic, incorporating measures that address these underlying economic realities to prevent child labor from becoming more concealed or hazardous. This includes initiatives aimed at alleviating poverty, enhancing access to quality education, and improving employment opportunities for adults. Such strategies require significant resources and coordination beyond the capacities of individual businesses or local governance structures. Moreover, the persistence of child labor is exacerbated by inadequate legal protections and weak enforcement mechanisms in many countries, which fail to safeguard children from hazardous work and ensure their right to education and development. Effective remediation must thus not only provide direct support to affected children but also contribute to systemic changes that address the broader economic and social drivers of child labor.

The challenge of remediating child labor is compounded by the economic realities where families and communities often depend on the income from child labor for survival. Remediation strategies must, therefore, address this economic dependency to prevent child labor from morphing into more concealed and hazardous forms. Additionally, the complexity of global supply chains, characterized by multiple layers of subcontracting, significantly challenges monitoring labor practices and preventing child labor. Businesses often lack visibility into the deeper tiers of their supply chains where child labor is more likely to occur, complicating efforts to identify instances of child labor and implement effective remediation measures.

However, identifying, assessing, and remediating child labor is increasingly becoming a requirement under international human rights regulations, such as the EU Corporate Sustainability Due Diligence Directive ("CSDDD") and the German Supply Chain Due Diligence Act ("SCDDA"), which mandate that businesses undertake due diligence to prevent human rights harms, including child labor, within their supply chains. The Convention on the Rights of the Child ("CRC"), the most widely ratified UN convention, emphasizes the best interests of children and underscores the necessity for interventions from all actors—including businesses—that respect and promote the rights and well-being of children. Despite these frameworks, many businesses struggle to effectively implement mechanisms that adequately identify instances of child labor and provide an effective remedy.

One forum in which the question of effective remediation for child labor occurs is currently being negotiated includes grievance mechanisms. A grievance mechanism, as defined by the United Nations Guiding Principles on Business and Human Rights ("UNGPs"), is "any routinized, State-based or non-State-based, judicial or non-judicial process

¹ UNICEF, <https://www.unicef.org/protection/child-labor>.

through which grievances concerning business-related human rights abuse can be raised and remedy can be sought.”² Operational-level grievance mechanisms (“OGMs”) are a specific type of grievance mechanism “through which individuals or groups can raise concerns about the impact an enterprise has on them – including, but not exclusively, on their human rights – and can seek remedy.”³

This paper examines the effectiveness of OGMs in addressing child labor, providing a critical assessment of their current application and proposing enhancements to better meet the needs and rights of children involved. It focuses on two key issues:

1. How existing grievance mechanisms and child labor remediation policies often fail to adequately address child labor; and
2. The suitability of OGMs for addressing and remediating child labor in accordance with international standards.

This paper seeks to address these issues based on an analysis of case studies shared by The Centre for Child Rights and Business (‘The Centre’) and The Remedy Project’s experience of working on OGMs capabilities and weaknesses. By exploring these issues, the paper aims to stimulate dialogue and inspire improvements in how businesses and policymakers tackle child labor, ensuring that child labor is not only identified but effectively remediated in alignment with the best interests of the child.



The child of a factory worker takes part in a Family Day event in Vietnam.
© The Centre for Child Rights and Business, 2024

2 United Nations Office of the High Commissioner for Human Rights, “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework,” Commentary to Principle 25, HR/PUB/11/04 (2011) (hereinafter “UNGPs”).

3 United Nations Office of the High Commissioner for Human Rights, “The Corporate Responsibility to Respect Human Rights: An Interpretive Guide,” 68, HR/PUB/12/02, (2012).

Access to Remedy

Remediation of child labor is defined by the International Labour Organization as “corrective measures taken to remove a child from child labor by providing alternatives and ensuring their safety and wellbeing.”⁴ This process is critical but remains an often overlooked and under-examined aspect of child labor remediation within OGMs. Despite being designed to address grievances involving business impacts on individuals, including violations of children's rights, their effectiveness in remedying specific abuses like child labor varies significantly. This variation can be attributed to the inherently complex nature of child labor, which differs markedly from typical living or working condition issues that OGMs handle.

While OGMs theoretically provide a means for affected children to seek redress for child labor, in practice, their implementation often falls short. Mechanisms are often inadequately designed, lacking the necessary structure to address the unique needs of child labor victims comprehensively. Furthermore, these mechanisms often assume that children possess sufficient awareness and understanding of both child labor and the grievance procedures available to them. In reality, many children are not adequately educated on their rights or on how to access OGMs, and they often operate in levels of supply chains where OGMs do not reach them. This inaccessibility exacerbates the existing knowledge gap, leaving child labor victims without viable means to seek redress. Consequently, the effectiveness of OGMs is severely limited, as they fail to penetrate the deeper tiers of supply chains where child labor is most prevalent. This knowledge gap also extends to those who can refer cases of child labor to OGMs, reducing their ability to provide access to meaningful redress to the intended beneficiaries. This lack of awareness, combined with design flaws, undermines their credibility and effectiveness, particularly in cases involving vulnerable populations like children.⁵

Several constraints and limitations contribute to this challenge. First, OGMs are generally not designed or implemented with children in mind. They often lack the specialized expertise required to engage effectively with child labor victims, who may have limited awareness or understanding of grievance mechanisms and how to use them. Trust issues also impede children's willingness to report abuses. Additionally, child labor is frequently not perceived as an immediate problem by the children involved or the adults around them. For many children who need money to cover their basic needs, securing work may seem like a solution rather than an issue, making them less likely to utilize OGMs. Furthermore, the rigid referral and investigation framework within which OGMs operate can restrict the flexibility needed to fully address the nuanced needs of children.

4 Supplier guidance on preventing, identifying and addressing child labor / International Labour Organization, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS), Geneva: ILO, 2020.

5 Ibid.

Translation of Grievances into Quality Remedies

Effective remediation requires more than the cessation of child labor; it necessitates a holistic approach that addresses the physical, psychological, and educational damages inflicted by such labor. It also involves the integration of strategies that tackle the root causes of child labor, such as economic hardship and lack of access to education, ensuring that children are not only removed from harmful conditions but also given opportunities for recovery and development.

The challenge is particularly acute in industries and regions where child labor is ingrained in the fabric of the local economy. Companies operating in these contexts face significant hurdles in creating mechanisms that prioritize the child's best interests and comply with both local and international child protection standards. According to international standards, companies should "put child safeguarding policies in place to protect children from harm and provide for remedial mechanisms where this harm has occurred."⁶

Given the prevalence of child labor, any business with a global supply chain, particularly a supply chain that passes through the agricultural, services, and industry sectors,⁷ is at significant risk of having child labor within its value chain. However, the nexus between an effective grievance mechanism and a remedy that is child-centric and in the best interests of a child remains underdeveloped. Indeed, UNICEF has noted that a child's "right to remedy has received little attention in the context of business-related human rights violations and abuses."⁸

Furthermore, despite the robust protection frameworks established by instruments like the UN Convention on the Rights of the Child, practical implementation of child-focused remediation

through grievance mechanisms remains inadequate. This deficiency points to a need for more improvements and enhancement of these mechanisms to ensure they are truly effective and not merely formalities. Addressing these issues requires comprehensive consideration of both access to grievance mechanisms and the ability to translate complaints into meaningful remedy.

In making such a translation, OGMs need to pay particular attention to marginalized groups, including children, who may face additional barriers to accessing remedy. According to recent OHCHR guidance, OGMs should ensure they are accessible to children, through child-friendly language, specially trained staff, and mechanisms that are sensitive to the needs of younger users, ensuring that these processes are accessible, effective, and "fully sensitive to the needs of younger users."⁹

As we proceed, this section will explore in detail the operational challenges and limitations of current grievance mechanisms in effectively addressing child labor. We will analyze the reasons these mechanisms fail to meet the needs of affected children and discuss what can be done to transform them into more effective tools for remediation, setting the stage for a deeper examination of existing policies and their efficacy. Additionally, we will consider the necessity of employing tools beyond OGMs, particularly community-based methods of engagement and the integration of these approaches with OGMs.

⁶ Ibid, page 5

⁷ Ibid, page 13

⁸ Ibid, page 4

⁹ Office of the United Nations High Commissioner for Human Rights, *Access to Remedy: Business and Human Rights - An Interpretive Guide (Advance Version)*, at 25, <https://www.ohchr.org/sites/default/files/documents/issues/business/access-to-remedy-bhr-interpretive-guide-advance-version.pdf> (2024).



A child's drawing to describe the prompt 'What Do Children Want?'

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How Existing Grievance Mechanisms and Child Labor Remediation Policies Often Fail to Adequately Address Child Labor

Existing grievance mechanisms and remediation policies within businesses can sometimes fail to adequately address child labor risks, or to sufficiently map out the grievance mechanism roadmap for a child complainant. One critical shortfall is the general disregard for barriers that are specific to children in the design and implementation of these mechanisms. For example, UNICEF has highlighted that alongside common barriers faced by adults, children encounter specific challenges such as:¹⁰

- Remediation mechanisms are not adapted to children's particular rights and needs, lacking the necessary provisions to adequately accommodate their complaints;
- Children are dependent on the goodwill of adults for support in all aspects, including financial, logistical, and emotional support; and
- Children often lack standing, which precludes them from initiating or participating in legal or quasi-legal proceedings on account of their age.¹¹

Additionally, the concept of guardianship varies across different legal systems, which can impose further limitations. In some instances, guardians may lack the legal authority or willingness to advocate effectively on behalf of the child, limiting their ability to access remedies or participate in the grievance process.

In practice, The Centre for Child Rights and Business ("The Centre") have also noted that existing child labor remediation policies fall short in several ways:¹²

-
- 10 Supplier guidance on preventing, identifying and addressing child labor, page 6.
 - 11 Standing refers to the legal right to bring a lawsuit or participate in a legal action.
 - 12 The Centre for Child Rights and Business, "Case 4: Analysis of existing child labor remediation policies." Please note that these case studies have been provided to The Remedy Project for use in this paper by The Centre and are not in the public domain.

1

Lack of Specificity

Grievance policies fail to differentiate between different types of grievances, resulting in a standard grievance process that is applied to all complaints. The lack of a tailored approach means that the complexities of child labor cases cannot be adequately addressed.

2

Inadequate Child-Centric Focus

Child labor is often grouped under a general human rights umbrella, which can dilute the focus on the specific needs and sensitivities unique to children. As a result, remediation efforts lack a child-centric perspective, and fail to prioritize the best interests of the child.

3

Policy Implementation Gaps

Even where companies establish specific policies for child labor remediation, deficiencies persist in the implementation of such policies. The Centre notes that as suppliers are made responsible for remediation, the typical result is that suppliers tasked with remediation frequently resort to minimalistic solutions like providing small cash compensations or enrolling the child in unsuitable programs without considering the child's situation or whether the outcome improves their situation. Little consideration is given to the best interests of the child and the impact of the remedy on the child.

4

Inappropriate Measures by Suppliers

Additionally, The Centre has observed that placing the remedial responsibility on the suppliers often results in the suppliers forcing children to undergo invasive and often inappropriate medical checks (to determine the child's age). Alternatively, suppliers have been observed to use their influence to compel children to give false statements or cause the children to simply 'disappear' beyond the reach of third parties.

5

Focus on Consequences Over Remediation

Child labor policies tend to emphasize the consequences of violating child labor codes of conduct rather than delineating steps for remedial action. This approach can prioritize mitigating risks to business over addressing risks to people, which contradicts the principles set forth in the UNGPs and emerging due diligence legislation.¹³

6

Neglecting Root Causes

Grievance mechanisms fail to account for the root causes of child labor, and without proper monitoring and follow-up, children are likely to re-enter the labor force after the conclusion of a grievance mechanism process. This limitation stems from the inherently reactive and backward-looking nature of these mechanisms. However, due diligence legislation and the UNGPs mandate a proactive and forward-looking approach that not only addresses existing harm but also prevents recurrence by tackling the root causes.

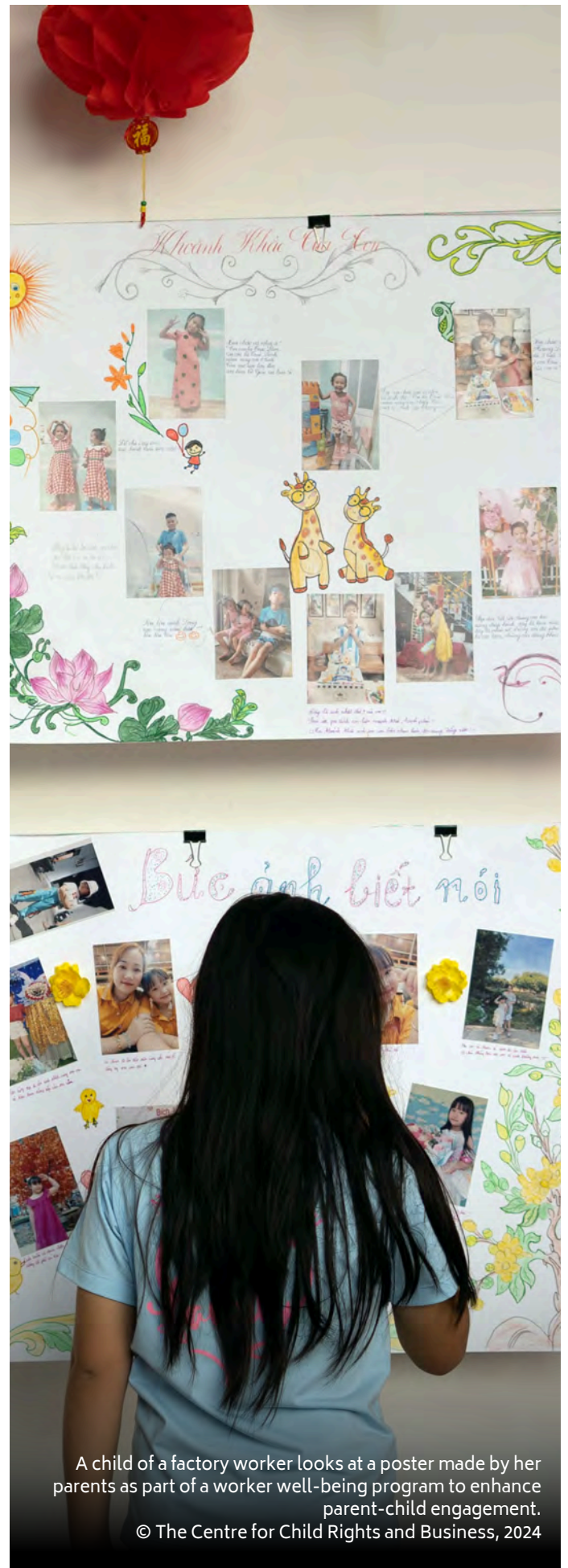
7

Insufficient Resources

Insufficient investment and financial resources to support effective remediation often undermines the potential for these mechanisms to have long-lasting positive impact.

¹³ Emerging due diligence legislation, such as the European Union's proposed Corporate Sustainability Due Diligence Directive (CSDDD), seeks to establish comprehensive standards for human rights and environmental due diligence, requiring companies to identify, prevent, mitigate, and account for their impacts. Similar national-level legislation, such as Germany's Supply Chain Due Diligence Act, imposes obligations on businesses to assess and address human rights and environmental risks within their supply chains. These frameworks emphasize the importance of prioritizing human rights risks to people over purely business risks, underscoring the need for robust remediation strategies aligned with international standards.

A case study of a large supermarket chain’s child labor remediation policy demonstrates these shortcomings.¹⁴ The responsibility for developing a remediation plan is placed on the supplier upon the discovery of child labor. The policy includes several directives for the supplier, such as not dismissing the child without notification to the supermarket. However, this approach is inherently flawed, as it often leads to superficial compliance without addressing the deeper issues. The policy lacks clear consequences for non-compliance and does not specify the long-term plan for the child post-remediation. This indicates a reactive rather than proactive stance focused more on avoiding business and reputational damage than on providing an effective remedy that aligns with the best interests of the child.



14 Name withheld for privacy concerns.

A child of a factory worker looks at a poster made by her parents as part of a worker well-being program to enhance parent-child engagement.
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The Suitability of OGMs for Addressing and Remediating Child Labor in Accordance with International Standards

To assess the suitability of OGMs for effectively addressing and remediating child labor, it is important to first grasp the fundamental requirements for investigating and remediating this issue. These requirements are shaped by international standards and underscore the importance of proactive identification, comprehensive investigation, and forward-looking remediation strategies.

Investigative Requirements

A thorough investigation into child labor necessitates child-friendly protocols, specially trained staff, and collaboration with child welfare experts. Investigators should be adept at employing child-sensitive interviewing techniques that safeguard children's dignity and psychological well-being. Collaboration with interdisciplinary experts, such as psychologists, educators, and social workers, ensures investigations are sensitive, appropriate, and comprehensive, thereby laying a foundation for effective remediation.

Robust Human Rights Due Diligence ("HRDD") Processes

Addressing child labor within global supply chains requires moving beyond traditional audits to implement robust human rights due diligence (HRDD) processes. This involves adopting a value chain approach that emphasizes identifying, assessing, and mitigating child labor risks throughout the entire supply chain. In industries such as mineral extraction, which frequently involves Conflict-Affected and High-Risk Areas ("CAHRAs") and the presence of child labor, companies must conduct heightened due diligence due to the increased risks of severe human rights violations.¹⁵

Compliance with New Regulations

Emerging and recent regulations, such as the EU Batteries Regulation, mandate strict HRDD requirements for companies, including the identification and remediation of child labor.¹⁶ These regulations require companies to promote supply chain transparency, demonstrate steps to mitigate child labor risks, and establish effective grievance and remediation mechanisms. These regulatory frameworks compel companies to address and remedy child labor proactively.

Collaboration with Stakeholders

Effective investigation and remediation of child labor also necessitate collaboration with a broad range of stakeholders, including local authorities, NGOs, and community leaders. Engaging these stakeholders provides critical insights and resources that enhance the effectiveness of remediation efforts.

Understanding the Harm and Forming Interdisciplinary Teams

Effective child labor remediation begins with an understanding of the multifaceted harm caused by child labor. This harm includes physical, psychological, and educational impacts that require a comprehensive approach to address. Forming interdisciplinary teams comprising social workers, educators, psychologists, and medical professionals is critical to conducting a thorough assessment of these impacts. Such teams ensure that all aspects of a child's well-being are considered, supporting the development of integrated remediation plans tailored to the child's needs.

Holistic Approach to Remediation

Remediation strategies must adopt a holistic approach that goes beyond addressing immediate needs to consider long-term well-being. For instance, The Centre for Child Rights and Business utilizes a “child labor rapid response service” that assesses each child’s situation, collaborates with stakeholders to develop comprehensive remediation plans, and provides solutions such as vocational school enrollment and financial support.¹⁷ This approach embodies a commitment to the best interests of the child through ongoing monitoring and support.

Moreover, it is important to highlight the necessity of long-term remediation strategies specific to child labor. Addressing child labor requires sustainable solutions that ensure children not only exit exploitative labor conditions but also receive continuous support to prevent re-entry. Long-term approaches involve tackling the root causes of child labor, such as poverty and lack of education, and providing ongoing assistance through vocational training, educational opportunities, and financial support. These strategies are critical to achieving lasting change and stability in the lives of affected children, thereby enhancing the overall effectiveness of remediation efforts.

Addressing Economic Foundations

A critical aspect of effective remediation is addressing the economic foundations that perpetuate child labor. Initiatives by international NGOs focus on reducing child labor in agriculture by strengthening community resilience.¹⁸ Through Child Labor Monitoring and Remediation Systems (“CLMRS”) and community-based interventions, these initiatives support smallholder farming cooperatives and advocate for policy changes that alleviate economic pressures and promote children’s education. However, despite extensive efforts, these initiatives often fail to create the long-term support and economic change needed to ensure effective long-term remediation and mitigation of child labor.¹⁹

Innovative Livelihood Programs

Introducing innovative livelihood programs, such as microfinance, can reduce dependency on child labor by improving household income stability. For example, FinDev Gateway has highlighted the role of microfinance in indirectly reducing child labor by enhancing household economic well-being.²⁰ When combined with education and awareness-raising efforts, microfinance can be a powerful tool in a comprehensive strategy to combat child labor.

Additionally, it is important to consider fair wages and pricing structures to create long-term sustainable solutions. Often, the most common form of child labor involves children working alongside their parents because the parents’ earnings alone are insufficient to cover basic needs. Ensuring that adult workers receive adequate compensation can significantly reduce the need for child labor, promoting a more stable and sustainable economic environment for families.

15 See United Nations Development Programme (UNDP) provides comprehensive guidance in its publication, Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts. This document emphasizes the importance of understanding and mitigating risks in conflict-affected areas by engaging with local communities, implementing robust and accessible grievance mechanisms, and cooperating with local and international stakeholders to establish effective remediation strategies. It underscores the critical need for companies to establish protocols that recognize the specific challenges posed by operating in such regions, ensuring that the rights of vulnerable populations, including children, are adequately protected.

16 EUBR, <https://eur-lex.europa.eu/eli/reg/2023/1542/oj>.

17 The Centre for Child Rights and Business, <https://childrights-business.org/child-labour-prevention/child-labour-remediation.html>.

18 Save the Children, <https://www.savethechildren.org/us/charity-stories/international-year-for-the-elimination-of-child-labor>.

19 NORC Final Report: Assessing Progress in Reducing Child Labor in Cocoa Production in Cocoa Growing Areas of Côte d’Ivoire and Ghana, https://www.norc.org/content/dam/norc-org/pdfs/NORC%202020%20Cocoa%20Report_English.pdf.

20 Microfinance and Child Labour, FinDev Gateway, January 2011, <https://www.findevgateway.org/paper/2011/01/microfinance-and-child-labour>.

Benefits of Using OGMs to Redress Child Labor

The very nature of grievance mechanisms is that they can be developed in a 'relatively informal, flexible, accessible, expedient, and cost-effective way to address human rights concerns.'²¹ OGMs bear these benefits as well, and their non-judicial nature, utilizing negotiation and mediation, offers a less intimidating environment for children to express their concerns, which is critical given the challenges they face in accessing justice.²² They can use methods such as negotiation and mediation, allowing OGMs to benefit from 'creative approaches to redress' that would not typically be found through traditional judicial procedures.²³

Furthermore, these mechanisms can bypass traditional legal barriers to child participation, such as the issue of children's standing, or the requirement for a responsible adult to represent a child, which might not be possible if the adult is part of the problem. In cases where a child lacks a legal guardian, state systems are generally required to intervene to appoint a guardian. However, these processes often fall short for undocumented children or those who are not easily reached by conventional methods. To address this, OGMs could maintain a pre-approved roster of guardians capable of supporting children accessing a grievance where there is no suitable adult. Thanks to these qualities, OGMs offer great potential in addressing, remediating, and contributing towards the elimination of child labor within a business's supply chain.

Moreover, a well-designed and implemented OGMs may 'provide valuable insight into both direct and indirect impacts ... [which] enables businesses to identify systemic issues and take active steps to prevent adverse impacts of children and to pre-empt disputes before they arise.'²⁴ This is particularly relevant to remediating child labor, as such a practice may help provide the necessary context and intervention points to prevent child labor from

continuing long-term.

A comprehensive grievance mechanism, integrated with a broader HRDD process and incorporating a robust feedback loop, can offer multiple advantages. It enables early identification of systemic issues, providing the opportunity to address them before they escalate. Such a mechanism allows businesses to proactively mitigate risks, implement targeted interventions, and develop prevention strategies to protect children. Moreover, by ensuring compliance with emerging regulations, it safeguards businesses from legal sanctions, productivity losses, and performance disruptions while strengthening the overall remediation framework.

21 Supplier guidance on preventing, identifying and addressing child labor, page 7.

22 Ibid.

23 Ibid.

24 Ibid.

Disadvantages of Using OGMs to Address Child Labor

However, the application of OGMs is not without challenges. Some instances of child labor involve severe abuses that OGMs, in their standard form, are ill-equipped to handle meaningfully. Complex cases involving criminal conduct or serious risks to personal safety may require interventions beyond the scope of OGMs. As UNICEF points out, it is crucial that children have access to multiple forms of redress to ensure their protection and welfare.²⁵

It is for this reason that a well-designed OGM also considers when not to accept a grievance and instead take action to ensure the safety and welfare of the child. Examples of such situations may be 'complaints that allege criminal conduct, situations where personal safety is at risk, and cases that are too sensitive or complex to be handled internally.'²⁶ Subsequently, remediation of child labor is largely dependent on the nature of the specific case – once again, highlighting the necessity for tailored child labor grievance mechanisms and remediation.

Moreover, integrating OGMs with broader HRDD frameworks can enhance their effectiveness by providing a structured approach to identify when additional interventions are necessary. This integration ensures that OGMs are not operating in isolation but are part of a holistic strategy to address and prevent child labor, aligning with international standards and regulations.



²⁵ Ibid.

²⁶ Ibid, page 8.

Young workers in a garment factory in Myanmar fill out a survey, the data of which is used to inform a young worker program.

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Characteristics of Effective Child Labor Remediation



The Centre's staff in Vietnam talk to workers in coffee and pepper plantations in rural Vietnam to assess the working and living conditions of them and their families. © The Centre for Child Rights and Business, 2024

In order to comprehensively tackle child labor, it is necessary to identify the characteristics that define effective remediation practices. A deep understanding of the social, political, cultural, and economic contexts in which child labor operates is crucial. For instance, The Roundtable on Sustainable Palm Oil ("RSPO") has identified that "among all children, those without birth certificates and/or those who are migrants are particularly vulnerable and are more likely to get involved in child labor and other forms of exploitation."²⁷ Contextual understanding provides the necessary foundation to address vulnerabilities and risk factors effectively.

Additionally, effective remediation requires meaningful stakeholder consultation and engagement with local communities and experts. Their insights can help identify practical solutions that are culturally sensitive and capable of addressing the root causes of child labor. Integrating this engagement into remediation processes ensures more sustainable outcomes and establishes best practices that adapt to changing contexts.

Finally, a re-examination of the cultural factors that influence the use of child labor is necessary. Understanding these factors allows for the development of innovative and creative approaches tailored to the specific challenges of each case and the needs of each affected child. There is no absolute answer to what constitutes effective child labor remediation because each case is unique. Nevertheless, exploring these questions enables us to develop creative solutions, as illustrated in the following case study.

27 Roundtable on Sustainable Palm Oil, 'Guidance on Child Rights for Palm Oil Producers' 4 December 2020 <http://www.rspo.org/wp-content/uploads/RSPO-GUI-T08_007_V1_ENG_Guidance_on_Child_Rights_for_PO_Producers.pdf>.

Tony's Chocolate exemplifies how a comprehensive understanding of investigation and remediation requirements can lead to effective implementation of OGMs. Tony's Chocolate approach in addressing child labor has been identified by The Centre as an industry best practice for the cocoa industry.²⁸ This case study illustrates the impact of employing a bottom-up, community-based communication structure to prevent, identify, and remediate child labor, showcasing the integration of robust investigative and remedial strategies.

A distinguishing feature of Tony's Chocolate's approach to tackling child labor in their supply chain is the use of a bottom-up community-based communication structure to prevent, identify and remediate child labor. This was achieved through the development of a transparent and responsible cocoa supply chain that is predicated on long-term partnerships and investment in farming communities. Doing so allowed Tony's Chocolate to address the structural inequities that drive the root causes of child labor.

Tony's Chocolate set up community-based CLMRS, which, as noted above, is an active process whereby businesses take steps to regularly check the sites where children may be working.²⁹ Child Labour Monitoring involves the "identification, referral, protection and prevention of child laborers through the development of a multi-sector monitoring and referral process that aims to cover all children living in a geographical area."³⁰ Tony's Chocolate is a novel example of how creative solutions can have great impact, highlighting the need for increased use of bottom-up risk identification methods.

The CLMRS implemented by Tony's Chocolate identified 268 cases of child labor in their partner cooperatives. The solutions provided by Tony's Chocolate included arranging birth certificates for children, distributing school packages (school uniforms, bags, math kits and sandals), handing out bicycles, arranging medical checks and health insurance and distributing wheelbarrows.³¹

Concurrently, Tony's Chocolate opts to work exclusively with farmer cooperatives, which empowers farmers with greater bargaining power and the ability to decide how to allocate the premium paid by the company. The contracts are generally long-term, lasting at least five years, providing stability for the cooperative farms. The premium payment is timed just before the start of the school year to address the root cause of economic inequalities and needs, ensuring that the child's best interests are taken into account when families decide whether to send their children to school or work.³² While these solutions may appear creative, they are fundamentally simple solutions that carry significant impact.

Tony's Chocolate CLMRS is led by local facilitators, who are responsible for house visits within the cooperative to assess risks, raise awareness and detect child labor cases. If child labor is found, both individual-level and community-wide remediations are provided, with follow-up visits conducted. Tony's Chocolate also transparently discloses the findings of their CLMRS to track progress and it measures the findings against clearly defined Key Performance Indicators ("KPIs"). The progress has been very encouraging: while Tony's reported a child labor prevalence rate of 10.5% at all partner co-ops, which is significantly below the industry average of 46.7% according to the NORC Report 2021,³³ the prevalence rate at longer-term partner co-ops is also significantly lower at 4.4% thanks to the CLMRS and other investments into the community.³⁴

This data highlights the value of investing in and cultivating long-term relationships with partner cooperatives. By building trust and empowering local communities, Tony's Chocolate has created a framework that not only reduces child labor but also strengthens the cooperative structure through sustained support and collaboration. The long-term partnerships foster a sense of shared responsibility for child welfare and align the incentives of both the company and farmers toward

sustainable remediation strategies. This approach underlines how consistent investment in community engagement and transparency can have a transformative impact on reducing the prevalence of child labor over time.

The Centre also notes that the success of such a program is largely due to the strong financial investments made into the program, highlighting the importance of financial investment in creating OGMs better suited to address child labor. Additionally, it is worth noting that Tony's Chocolate CLMRS differs from a standard CLMRS in its implementation. For instance, Tony's Chocolate's CLMRS are implemented by its partner cooperatives – the partners own the data and recruit their own community facilitators. This emphasis on local ownership, coupled with long-term investments, ensures a viable and sustainable approach. In contrast, standard CLMRS initiatives are "funded and executed solely by teams recruited by cocoa traders."³⁵ Therefore, a significant factor is meaningful stakeholder engagement to boost confidence and a sense of ownership in the CLMRS.

28 The Centre for Children and Business, "Case Study 2: Industry Best Practices."

29 International Labour Organization, "Child labor monitoring (CLM)" <<https://www.ilo.org/ipecc/Action/Childlabormonitoring/lang--en/index.htm>>

30 Ibid.

31 Tony's Chocolonely, 'Strong farmers, professional cooperatives' <<https://tonyschocolonely.com/nl/en/strong-farmers-professional-cooperatives>>

32 Ibid.

33 NORC (University of Chicago), 'NORC Final Report: Addressing Progress in Reducing Child Labor in Cocoa Production in Cocoa Growing Areas of Côte d'Ivoire and Ghana' October 2020 < https://www.norc.org/content/dam/norc/org/pdfs/NORC%202020%20Cocoa%20Report_English.pdf>

34 The Centre for Children and Business, "Case Study 2: Industry Best Practices."

35 Tony's Chocolonely Open Chain Impact Report 2022/23 <<https://online.flippingbook.com/view/371809889/44/#zoom=true>> page 44.



War War Nwe took part in a sewing training course as part of her child labour remediation program with The Centre in Myanmar.

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Critical Analysis of CLMRS and Other Systems

The effectiveness of CLMRS can be seen through their comprehensive approach to identifying and addressing child labor. CLMRS often involve local communities in monitoring efforts, providing a robust framework for the early detection of child labor cases. The strengths of CLMRS include their proactive nature, community engagement, and ability to tailor solutions to the specific needs of affected children.

However, despite these strengths, CLMRS can still face significant challenges. Some of these systems may struggle to identify and address hidden forms of child labor due to insufficient resources or local resistance to external monitoring. Moreover, in regions where child labor is deeply ingrained due to socioeconomic factors, CLMRS might lack the capacity to provide holistic, long-term remediation. They also face difficulties ensuring consistent implementation across different communities, as local variations can lead to gaps in monitoring and enforcement. Thus, while CLMRS have strong potential, they require continuous refinement and integration into broader, multifaceted child protection frameworks to be truly effective.

Comparisons with Standard OGMs

When comparing CLMRS to standard OGMs, several key differences and similarities emerge.

Alignment with Community Needs

CLMRS typically involve significant local engagement and are often implemented by community-based organizations or cooperatives, as seen with Tony's Chocolate. This local ownership and participation can enhance the effectiveness of the system by fostering trust and ensuring that interventions are culturally relevant and sustainable. While OGMs are generally top-down in approach, CLMRS provide a complementary bottom-up method. However, many CLMRS are implemented sporadically, such as through occasional inspections by labor inspectors, which can also be top-down. Notable positive models like Tony's CLMRS establish a bottom-up communication structure that effectively addresses the limitations of OGMs. By making reporting a standardized task for community facilitators, these systems create a targeted grievance process that overcomes the challenges of OGMs. This approach provides children with dedicated facilitators who are responsible for advocating and responding on their behalf.

Proactive vs. Reactive Approaches

CLMRS are generally more proactive, focusing on continuous monitoring and prevention, while standard OGMs often take a reactive approach, addressing grievances after they have been reported. This proactive stance of CLMRS allows for early intervention, potentially preventing more severe instances of child labor.

Scope and Flexibility

Standard OGMs may lack the flexibility needed to address complex cases of child labor, especially those involving criminal elements or severe safety risks. CLMRS, with their community-based approach, may be better equipped to handle such complexities by leveraging local knowledge and resources.

In summary, while CLMRS provide a robust, community-focused approach to addressing child labor, they are not a panacea. The comparison with standard OGMs highlights the need for a hybrid approach that leverages the strengths of both systems to create a comprehensive strategy for child labor remediation. This approach should include proactive monitoring, local engagement, and robust integration with HRDD frameworks to address the complex and multifaceted nature of child labor effectively.

Developing OGMs Fit for Children

Designing and implementing OGMs fit for children requires careful consideration of various factors. It is impractical to create an exhaustive list, and each mechanism must be tailored to the specific industry, sector, and context in which the business operates. Here are key principles and practices specifically for addressing child labor through OGMs:

1

Meaningful Stakeholder Engagement

Developing an effective grievance mechanism necessitates engaging children, communities, child rights organizations, and independent experts. This ensures that the mechanism is impactful and sustainable, with remedies that are in line with the best interests of the affected children.

2

Identifying Root Causes

Significant investment in time and resources is essential to identify the root causes of child labor within the specific industry and sector. This process should ideally be done in conjunction with expert organizations and front-line NGOs to facilitate knowledge-sharing and to find appropriate solutions. Understanding these root causes is crucial for timely and effective remediation.

3

Firm Commitments to Prompt Resolution

Business should commit to resolving grievances promptly and providing timely, tailored remedies, including protective interim measures that limit ongoing and future damage to the affected child/children.³⁶ This commitment should include child-appropriate socialization of the grievance mechanism and rights training tailored to children.

4

Accessible Contact Points

Establishing, maintaining, and promoting contact points that are accessible to children, staffed by trained professionals and located in easy-to-reach, safe places.³⁷

5

Direct Complaint Channels

It is essential to enable children to bring complaints directly or through a trusted adult representative by creating referral points within the community.³⁸ This feature distinguishes non-judicial OGMs and should be maximized in the design process to ensure children's voices are heard and addressed. This system should also be supported by bottom-up structures like CLMRS, ensuring children's voices are effectively heard and addressed.

6

Regular Reviews and Impact Measurement

Regular reviews of child labor policies and conducting impact measurement exercises of existing mechanisms are vital. These reviews help identify gaps and areas for improvement, ensuring the OGM remains effective and responsive to changing needs.

36 UNICEF, "Discussion Paper: Operational-level Grievance Mechanisms Fit for Children." <https://www.unicef.ca/sites/default/files/2019-01/UNICEF_GRIEVANCE-MECHANISMS.pdf> page 10.

37 Ibid.

38 Ibid.

Success Metrics for Child Labor Remediation

Success in child labor remediation should be measured by high standards, focusing on long-term outcomes. Effective remediation means that the child is no longer engaged in labor, is enrolled in school or vocational training, and is in a better situation than initially. A holistic approach should involve the following components:

Educational Continuity and Improvement

Ensuring that children have continuous access to quality education or vocational training.

Health and Psychological Well-being

Providing support for the physical and psychological recovery of affected children.

Long-term Economic Stability

Addressing the economic conditions that contributed to child labor, ensuring families have sustainable alternatives of income.

Ongoing Monitoring and Support

Implementing a system for ongoing monitoring and support to prevent recurrence of child labor and to track the progress of remediation efforts.

By adhering to these principles and success metrics, businesses can develop OGMs that are not only fit for purpose but also aligned with international standards and dedicated to the holistic well-being of children.

Conclusion

OGMs present a compelling argument for addressing child labor due to their relatively informal, flexible, accessible, expedient and cost-effective nature. In contrast, judicial remedial procedures often involve significant cost and resources and are largely dependent on the merits of the legal claim. Even if the merits of the legal claim are strong, the issue of the child's legal standing would likely pose an additional barrier, particularly in cases where a responsible adult compels the child to work. OGMs offer flexible, tailored remedies that are better suited to a child's unique situation, as opposed to the rigid remedies available through judicial processes. This is a key defining feature of OGMs, and if the remedy is sustainably implemented, there is great potential in OGMs in addressing child labor within supply chains.

However, the effectiveness of OGMs hinges on their ability to be tailored to the needs of impacted children and supported by sufficient financial investment for both developing mechanisms and providing remedies. OGMs remain largely underdeveloped and under-invested in addressing child labor, limiting their effectiveness and impact. Further investigation into why this remains the case is warranted, given the continued prevalence of child labor.

To achieve their full potential, OGMs must be deeply rooted in community-based risk identification approaches and involve children and local communities in their design, rollout, and implementation. These principles will ensure that the mechanisms are not only culturally relevant but also effectively responsive to children's needs.

OGMs have the potential to make significant strides in addressing and ultimately eliminating child labor within a business' supply chain, contributing to meeting their international HRDD obligations. With the right investment and approach, OGMs present an ideal opportunity to engage with children in a meaningful way. However, for this potential to be realized, businesses must recognize the importance of investing in these mechanisms to enhance their reach and effectiveness. Without this commitment, OGMs will continue to fall short of their intended impact.



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