

Methods to promote the implementation of human rights obligations relating to the environment & examples of types of norm-clarifying instruments at the global level include:

The impact of business activity on the environment and child rights

The Committee on the Rights of the Child has stated that:

‘Environmental degradation and contamination arising from business activities can compromise children’s rights to health, food security and access to safe drinking water and sanitation. Selling or leasing land to investors can deprive local populations of access to natural resources linked to their subsistence and cultural heritage; the rights of indigenous children may be particularly at risk in this context.’

Example 1: Inter-American Commission on Human Rights: La Oroya Case

A group of civil society organizations filed a series of petitions with the Inter-American Commission on Human Rights on behalf of 65 persons, including 33 children, in the smelting town of La Oroya, Peru. Residents of the town had long suffered serious health problems from dangerously high levels of industrial pollution, and sought to hold the Peruvian government responsible for failing to protect them from the ill effects of environmental contamination in violation of their rights to life and physical integrity, and of children’s rights as set out in the American Convention on Human Rights. The Commission requested that the Peruvian government provide the victims with immediate medical assistance, noting the particularly harmful impacts on children, and remarked on possible rights violations.

Example 2: Land Use

Business acquisition of community, public and individually owned property rights can negatively impact the enjoyment of children’s rights. Environmental degradation from land use can decrease the availability of food and access to clean water and sanitation, while forced evictions may cause interruptions in education, reduce access to health care, result in scarcities in adequate housing, raise problems related to social exclusion, and increase risks of trafficking and exploitation. In this context, the Kenya National Human Rights Commission launched a public inquiry into community displacements resulting from the coastal salt manufacturing industry. The Commission uncovered numerous human rights violations and abuses, including issues related to harassment, inadequate compensation, corruption, poor labour conditions and pollution; identified the roles and responsibilities of all public and private sector actors involved; and issued targeted recommendations to both government and business. In addition, the Commission proactively organized consultations with local communities to inform them of their rights and discuss the potential impacts of future business projects.

Norms that need to be better implemented – the Child Rights & Business Principles

The Children’s Rights and Business Principles, developed by Unicef, Save the Children and the UN Global Compact provide guidance on how businesses can respect and support children’s rights in relation to the environment and to land acquisition and use by:

Respecting children’s rights in relationship to the environment

- When planning and implementing environmental and resource-use strategies, ensure that business operations do not adversely affect children’s rights, including through damage to the environment or reducing access to natural resources.

- Ensure the rights of children, their families and communities are addressed in contingency plans and remediation for environmental and health damage from business operations, including accidents.

Supporting children's rights in relationship to the environment where future generations will live and grow

- Take measures to progressively reduce the emission of greenhouse gases from company operations and promote resource use that is sustainable. Recognize that these actions and other initiatives to better the environment will impact future generations. Identify opportunities to prevent and mitigate disaster risk and support communities in finding ways to adapt to the consequences of climate change.

More stringent guidance on the state obligations with respect to business activity and its impact on children's rights has been provided by General Comment 16 of the Committee on the Rights of the Child.

It is necessary for States to have adequate legal and institutional frameworks to respect, protect and fulfil children's rights, and to provide remedies in case of violations in the context of business activities and operations. In this regard, States should take into account that:

- Childhood is a unique period of physical, mental, emotional and spiritual development and violations of children's rights, such as exposure to violence; child labour or unsafe products or environmental hazards may have life-long, irreversible and even trans-generational consequences.*

*When determining the level or form of reparation, mechanisms should take into account that children can be more vulnerable to the effects of abuse of their rights than adults and that the effects can be irreversible and result in lifelong damage. They should also take into account the evolving nature of children's development and capacities and reparation should be timely to limit on-going and future damage to the child or children affected; for example, **if children are identified as victims of environmental pollution, immediate steps should be taken by all relevant parties to prevent further damage to the health and development of children and repair any damage done.** States should provide medical and psychological assistance, legal support, and measures of rehabilitation to children who are victims of abuse and violence caused or contributed to by business actors. They should also guarantee non-recurrence of abuse through, for example, reform of relevant law and policy and their application, including prosecution and sanction of the business actors concerned.*

There is also a role for home governments to apply extra-territorial obligations businesses' impact on the environment overseas. In its concluding observations with respect to Canada, the Committee on the Rights of the Child stated

"The Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards...In particular, it recommends that the State party ensure: (a)The establishment of a clear regulatory framework for, inter alia, the gas, mining, and oil companies operating in territories outside Canada to ensure that their activities do not impact on human rights or endanger environment and other standards, especially those related to children's

rights; (b)The monitoring of implementation by companies at home and abroad of international and national environmental and health and human rights standards and that appropriate sanctions and remedies are provided when violations occur with a particular focus on the impact on children...

The EU Accounting Directive on Non-Financial Reporting

There is an opportunity to promote the implementation of human rights obligations with respect to the environment through the transposition of Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

This requires non-financial disclosure by large companies, including information related to business impacts on labour, the environment, human rights, corruption and bribery. Specifically, this requires the preparation of:

a non-financial statement containing information relating to at least environmental matters, social and employee-related matters, respect for human rights, anti-corruption and bribery matters. Such statement should include a description of the policies, outcomes and risks related to those matters and should be included in the management report of the undertaking concerned. The non-financial statement should also include information on the due diligence processes implemented by the undertaking, also regarding, where relevant and proportionate, its supply and subcontracting chains, in order to identify, prevent and mitigate existing and potential adverse impacts.

This represents an opportunity for EU countries to apply more stringent demands of business reporting on their due diligence processes with respect to human rights, the environment and the interplay between both.

All businesses need to be encouraged to carry out robust human rights due diligence, including with a specific focus on children, as per their obligations under the UN Guiding Principles on Business and Human Rights. This process must consider the impact on child rights due to the business impact on the environment.