



**Global March Against Child Labour's Submission to the United Nations (UN)  
Working Group on the issue of human rights and transnational corporations  
and other business enterprises**

Global March Against Child Labour (Global March) is a worldwide network of trade unions, teachers and child rights organisations that specifically focuses on child protection and education, i.e., the right of children to be protected from economic exploitation, from performing any work that is likely to be harmful to their physical, mental, spiritual, moral or social development; and the right to receive a free, meaningful and good quality education. Given this, Global March's submission to the Working Group is essentially from a child rights perspective and hence its relation with the business sector. Two additional points may also be noted in this regard:

- As per the General Comment of the United Nations Committee on the Rights of the Child on Child Rights and the Business Sector (Draft one, July 2012), human rights due diligence in case of the business sector must be underpinned by the provisions of the United Nations Convention on the Rights of the Child and other plans/actions so as to have a special regard to the differentiated impact of business on children. This clearly implies the need to specifically look at the UN Guiding Principles on Business and Human Rights, i.e., the Protect, Respect and Remedy framework from a child rights perspective and to also make it child rights inclusive.
- Protection, respect and fulfillment of childrens' rights (specifically, the right to be protected from economic exploitation) are not isolated from the protection, respect and fulfillment of other human rights. For instance, among other things, it is well known that child labour weakens the bargaining power of trade unions thus affecting the fulfillment of the right to decent work. A corollary to this is that if the right of children to be protected from economic exploitation is fulfilled, then this would further the promotion and fulfillment of the right to decent work.

## **Child rights and businesses**

The world today is a world in crisis, both socio-political, economic and environmental – the Arab Spring has unleashed a wind of change ushering democratic and economic reforms, global turmoil in the financial markets has put national budgets under pressure, and escalating unemployment, food insecurity, water scarcity, hunt for renewable energy and climate change have added to the list of global problems. ‘Business-as-usual’ will buckle under sustained pressure from these crises. And, under duress the world community must collectively engage to find solutions, reflecting and innovating for sustainable change and development.

Further, the process of globalisation and other global developments over the past decades have seen non-state actors such as transnational corporations and other businesses play an increasingly important role not only internationally, but also at the national and local levels. The growing reach and impact of business enterprises have given rise to a debate about the roles and responsibilities of such actors with regard to human rights.

More and more companies have recognised that they must operate responsibly and work to uphold international agreements on human rights and promote decent work for adults. However, in recent times there is a growing awareness that the goods and services supply chains are not immune to the presence of child labour. Of all the exploited workers, children are the most vulnerable, physically, mentally and emotionally.

While ‘corporate social responsibility’ efforts have reached a critical point in time, with much learning and improvement, there also have been many setbacks. The current prevalent system hinged on ‘policing’ is largely perceived as flawed and ineffective in preventing slavery and human trafficking in goods and services supply chains. There are more children, women and men in slavery now than at any time in world’s history. Greater accountability and transparency clubbed with real stakeholder engagement, that integrate business practices for the implementation of workplace monitoring and verification with state labour inspectorate and trade union dialogue should be the skeletal framework for ethical business.

## **Global March’s Submission**

- *Addressing child rights/human rights violations in the informal economy* – The world of work is continuously changing and it is now increasingly contractual and indirect – having a disabling impact on workers’ rights. A considerable amount of business, i.e. production of goods and services takes place in the informal economy. The fact that about 80 per cent of

the workforce is found in the informal set-up can be a proxy indicator of this<sup>1</sup>. Global March from its past as well as current areas of work has seen that mostly child labourers and labour violations take place in the non-formal sector which is outside the ambit of legal and regulatory framework. For instance, Global March's current child labour in garment project<sup>2</sup> have revealed and rescued several children engaged in production of readymade garments not in formal factories but in sweatshops and at the sub-contracted level. And, from its current focus also on child labour in agriculture<sup>3</sup>, Global March has seen that there are around 129 million child labourers working in agriculture- a sector which remains outside the scope of regulation in most countries. Further, the continuing and lingering effects of the economic and financial crisis is pushing many jobs into informal arrangements and making poor families and their children more vulnerable to exploitation.

The States' duty to protect and promote human rights cannot be under emphasised, especially in light of the continuous failure by the States to hold business enterprises responsible and accountable in their domiciles for human rights violations in their multi-national supply chains.

Under this scenario, it is imperative that any policy document/guideline/framework on business and child rights/human rights addresses this aspect of violations in the lowest and informal levels of the supply chains. The UN Guiding Principles on Business and Human Rights need to explicitly include in the human rights due diligence process the identification, prevention, reparation and taking account of human rights impacts and violations in the informal sector by businesses/lowest and informal levels of the supply chains across State borders. In other words, Global March strongly recommends carrying out human rights *due diligence* at all levels of the supply and value chains of business regardless of the difficulty of reach and access at all levels. Global March recommends the engagement and involvement of other stakeholders and social partners, viz., trade unions and employers' organisations for addressing human rights and child rights violations in lower levels of supply/value chains.

- *Increased transparency and accountability*: Principle 21 of the UN Guiding Principles on Business and Human Rights encourages business enterprises to communicate and report their human rights impacts which could serve as a measure of transparency and accountability. In this respect, Global March recommends that States as part of their duty to protect human rights should promote strong transparency and accountability frameworks, including integration of the independent voluntary business practices with the state labour and welfare mechanisms.

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<sup>1</sup> <http://www.npr.org/2011/10/26/141503411/the-informal-economy-driving-world-business>

<sup>2</sup> <http://www.globalmarch.org/campaigns/not-made-by-children>

<sup>3</sup> <http://www.globalmarch.org/events/agriconference2012>

There is lack of transparency and of an effective monitoring system of how businesses impact children's rights. States should develop transparency and accountability frameworks for the businesses to operate in including national corporate social responsibility guidelines, transparency in the supply chains and accountability of the business action. The recent times are seeing the emergence of transparency framework at the national level. One such example is the *California Transparency in Supply Chains Act of 2010*<sup>4</sup>, a disclosure law in the state of California, U.S.A. that rests on a process of human rights due diligence by the companies and public disclosures of the same. Another example is the *National Voluntary Guidelines on Social Environmental and Economic Responsibilities of Business*, introduced by the Ministry of Corporate Affairs, Government of India in July 2011, which contain comprehensive principles to be adopted by companies as part of their business practices and a structured business responsibility reporting format requiring certain specified disclosures, demonstrating the steps taken by companies to implement the said principles. In August 2012, this was followed by a decision to mandatorily include Business Responsibility Reports (containing disclosures as per the National Voluntary Guidelines) in the Annual Reports for listed companies<sup>5</sup>. Most recently, the *Transparency in UK Company Supply Chains (Eradication of Slavery) Bill 2012-13*<sup>6</sup> has been introduced that will require among other things, large companies in the UK to make annual statements of measures taken by them to eradicate slavery, human trafficking, forced labour and the worst forms of child labour (as set out in Article 3 of the International Labour Organization's Convention No. 182) from their supply chains.

The issue of slavery and human trafficking is of primary concern for the vulnerable communities affected and impacted by business enterprises. Business enterprises, national and transnational, must ensure a 'zero tolerance' approach towards slavery and human trafficking in all its forms. Recognition of underage workers and of specific labour violations such as illegal sub-contracting, sweatshop conditions, unregistered workers; as indicator of trafficking for forced labour would foster a practice of transparent and clean supply chains.

- *Strengthening the extraterritorial jurisdiction of States for transnational businesses' impacts on child rights/human rights:* With transnational corporations spanning numerous State boundaries, it is important that States - both home and host States are responsible and fulfill their obligations towards children's rights with the national and international frameworks. Principle 2 of the UN Guiding Principles on Business and Human Rights does address this aspect which is a welcome step. But to strengthen to extraterritorial jurisdiction of States for

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<sup>4</sup> [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0651-0700/sb\\_657\\_bill\\_20100930\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf)

<sup>5</sup> [http://www.sebi.gov.in/cms/sebi\\_data/attachdocs/1344915990072.pdf](http://www.sebi.gov.in/cms/sebi_data/attachdocs/1344915990072.pdf)

<sup>6</sup> <http://services.parliament.uk/bills/2012-13/transparencynukcompanysupplychainseradicationofslavery.html>

transnational businesses' impacts on child rights/human rights, Global March recommends that States should develop mechanisms to ensure the fulfillment of the obligations by the principal employers who is the ultimate beneficiary of the goods or services or the proceeds of their sale, to ensure reparation by the transnational corporations. The key barriers – institutional, political and legal, must be resolved to ensure effective enforcement of laws (criminal and civil liabilities) to hold business enterprises accountable for their activities and actions at all levels irrespective of State boundaries.

As a general note, Global March recommends that business enterprises should be encouraged to promote pro-active corporate social responsibility strategies and engagement with the communities, instead of the current reactive and 'top-down' reactions to mitigate risks and manage public relations. It further recommends greater understanding of business impact on child rights, including portrayal of children in media and advertising, private sector as service provides, family-friendly policies at workplace, public procurements, effects on taxation, and legal liability of businesses towards violations. Stringent due diligence, regulatory framework, mechanisms of reparation for violations and collective responsibility by States, transnational corporations and other business enterprises, and other non-state actors, underpin the pillars of sustainable global development and human rights. Countries should make the human rights issue part of every free trade agreement. It should also deal with the question of jurisdiction. In this agreement at least the most severe human rights violations should be addressed, like bonded labour, human trafficking, and child labour. In this agreement countries should also work out the State grievance mechanism. Without a proper agreement between States about who is responsible for addressing the complaint a grievance mechanism has no practical use, although it will always be a State independent right to prosecute a criminal offense within the countries jurisdiction.

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Global March Against Child Labour