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DISCUSSION PAPER:  
Operational-level grievance  
mechanisms fit for children

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# I. BACKGROUND AND INTRODUCTION

## About this discussion paper

This discussion paper explores how businesses can help children to raise grievances effectively when their rights have been infringed. It considers how companies can establish or participate in grievance mechanisms to provide recourse and resolution in a manner satisfactory to all.<sup>1</sup> Such an approach is not only in line with children's rights, but also promises to benefit the companies that adopt it.

This discussion paper also complements UNICEF's existing set of tools for companies, which provide practical guidance on incorporating children's rights in policies, impact assessments, reporting and stakeholder engagement.<sup>2</sup> To date, children's right to a remedy has received little attention in the context of business-related human rights violations and abuses. With this in mind, the paper aims to start a dialogue about children's rights and operational-level grievance mechanisms.

## How are children's rights and business related?

Human rights apply to human beings of all ages, including children. Because of their unique situation, children also have specific rights as set out in the 1989 United Nations (UN) Convention on the Rights of the Child (CRC).<sup>3</sup> The CRC encompasses children's civil, political, economic, social and cultural rights, and is both the most comprehensive legally binding international instrument in the world and also the most widely ratified.<sup>4</sup> National authorities have an obligation to protect children's rights, and the CRC forms part of the legal framework in which businesses operate. In 2013, the UN Committee on the Rights of the Child – the international group of experts responsible for monitoring the CRC – published interpretive guidance on how governments can address the impact of the business sector on children's rights ("CRC General Comment 16").<sup>5</sup>

At the same time, it is increasingly recognized that companies must play a role in realizing human rights.

Adopted in 2011, the UN Guiding Principles on Business and Human Rights ("UN Guiding Principles") underscore the corporate responsibility to respect human rights and detail the policies and processes that businesses should adopt to meet this responsibility. Among other things, these include making a policy commitment on human rights; developing a due diligence process to identify, prevent, mitigate and account for human rights impacts; and establishing or participating in a mechanism to remedy adverse impacts.<sup>6</sup>

The Children's Rights and Business Principles, released in 2012, place a child rights lens on the UN Guiding Principles. These ten principles call on all businesses to respect and support children's rights in the workplace, marketplace, community and environment. They aim to help businesses better understand their responsibilities towards children in a variety of contexts, including the employment of young workers, advertising practices, land use and operation in emergency situations.

### Box 1: Children's Rights and Business Principles

Developed through a process led by UNICEF, the United Nations Global Compact and Save the Children – together with companies and other stakeholders – the Children's Rights and Business Principles call on businesses to:

1. Meet their responsibility to respect children's rights and commit to supporting the human rights of children
2. Contribute towards the elimination of child labor, 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 protect children affected by emergencies
10. Reinforce community and government efforts to protect and fulfil children's rights

<sup>1</sup> While business enterprises may take many forms, this paper uses the terms business, company and corporation interchangeably for ease of comprehension.

<sup>2</sup> UNICEF's tools for companies on children's rights are available at <https://www.unicef.org/csr/>.

<sup>3</sup> As per article 1 of the Convention on the Rights of the Child, 'a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'.

<sup>4</sup> As of December 2016, the CRC has been ratified by all States in the world, except the United States of America. The USA have however signed the Convention, which means that they have committed to respect its spirit.

<sup>5</sup> General comment No. 16 on State obligations regarding the impact of the business sector on children's rights, Committee on the Rights of the Child, CRC/C/CG/15, 2013.

<sup>6</sup> Children are Everyone's Business: Workbook 2.0, UNICEF, December 2013, p.8.

## Why is it important for business to respect children's rights?

Businesses can help improve children's lives through the way in which they operate facilities, develop and market products, provide services, and exert influence on economic and social development. Conversely, businesses can disregard children's interests, or worse yet, to abuse their rights. Children can be especially vulnerable to corporate rights abuses,<sup>7</sup> which can have permanent, lifelong consequences, threatening their survival and development.<sup>8</sup>

### Box 2: Children's Uniquely Vulnerable Situation

Because of their age, children could be even more affected by companies' operations than other community members. Here are some reasons why:

- Childhood is a unique period of rapid development when physical, mental and emotional well-being can be permanently influenced for better or worse.
- Common occurrences impact children differently and more severely than adults, and economic, social and physical disruptions that adults may readily cope with can be defining events in a child's life.
- Children employed or affected by business are often unseen and uncounted, and children in particularly vulnerable situations are the most likely to be overlooked.
- Children lack a public voice, and are rarely consulted in important decisions that affect their lives or given an opportunity to speak up when they face challenges or concerns.

In particular, it should be noted that all children have the right to be protected, nurtured and to be free from all forms of violence, abuse, neglect, maltreatment and exploitation.<sup>9</sup> Companies who come into direct or indirect contact with children should take care to respect this right, establishing clear policies and systems to prevent violence against children. More specifically, businesses have a responsibility to put child safeguarding policies in place to protect children from harm and provide for remedial mechanisms where this harm has occurred.<sup>10</sup>

### Box 3: Child Safeguarding Policies

Child-safeguarding policies provide a way for any organization to strengthen their commitment to prevent harm and abuse to children. In the corporate context, child safeguarding looks at how business operations and work practices impact on the welfare of children. At its most basic, child safeguarding entails preventing physical, sexual and emotional abuse, neglect and maltreatment by employees and other persons for whom the company is responsible, such as visitors to the premises or volunteers. Child safeguarding requires a clear approach to address specific child protection concerns about children at risk of significant harm from contact with corporate actors, business partners, products or services.

Any company whose employees or business partners engage directly or indirectly with children has a legal and moral duty of care to protect children from harm. A Child Safeguarding Policy provides companies with a formal approach to managing this duty of care, and can also be extended to cover suppliers and other business relationships. In addition to ensuring the wellbeing of children, a good Safeguarding Policy also safeguards the company, its employees and its reputation. Companies seeking to develop a child safeguarding program typically follow five key steps:

1. Conduct a child safeguarding risk assessment that details the ways in which employees and persons acting on behalf of the company come into direct or indirect contact with children.
2. Run a gap analysis of existing policies, processes and governance structures that may support the safeguarding of children, and develop additional structures and guidance to fill relevant gaps.
3. Develop a policy commitment that outlines the company's intention to keep children safe from abuse and maltreatment by its employees and partners acting on its behalf.
4. Set out an implementation plan to meet the commitments outlined in the safeguarding policy.
5. Establish a reporting structure for actual and potential cases of abuse to be received and processed.
6. For more detailed guidance and tools, please see UNICEF's Child Safeguarding Toolkit.<sup>11</sup>

<sup>7</sup> Children are Everyone's Business: Workbook 2.0, UNICEF, December 2013, pp. 5-6.

<sup>8</sup> Children are Everyone's Business: Workbook 2.0, UNICEF, December 2013, pp. 4-5.

<sup>9</sup> CRC, Article 19.

<sup>10</sup> Children's Rights and Business Principles, Principle 1; UN Guiding Principles on Business and Human Rights, Principle 15 (note that the commentary to Principle 12 refers specifically to the rights of children).

<sup>11</sup> UNICEF, Child Safeguarding Toolkit, available at <https://www.unicef.org/csr/>.

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## What happens when children's rights aren't respected?

Children have a right to a remedy<sup>12</sup> when their rights are abused or violated, such as when they are engaged in child labour, harmed by environmental toxins, forced to leave their communities, or subjected to violence by security forces. The right to a remedy is not only a right in itself,<sup>13</sup> but also a means to enforce the other rights, such as the right to be protected against exploitation, the right to education or the right to an appropriate standard of health. As explained by the Committee on the Rights of the Child, 'for rights to have a meaning, effective remedies must be available to address violations.'<sup>14</sup> Access to a remedy also represents one of the three pillars of the UN Guiding Principles on Business and Human Rights, based both in public obligations and private responsibilities.<sup>15</sup>

Governments must ensure that children whose rights have been infringed have access to effective judicial and non-judicial mechanisms for redress – in other words, children must have access to justice.<sup>16</sup> Similarly, businesses should put processes in place to address adverse human rights impacts they cause or to which they contribute.<sup>17</sup> As discussed in Section II, operational-level grievance mechanisms make up a key component of these processes and can directly provide redress to affected individuals and communities.<sup>18</sup>

On account of 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.

Overcoming obstacles and correcting for imbalances in power requires particular, tailored measures to be put in place, as described in Section III.

### Box 4: Challenges in Accessing Remedies

As a group, children are not only among the groups most at risk of rights abuses and violations, but also face greater obstacles in accessing remedies. Children face heightened barriers that are common among adults, including lack of information or literacy; fear of reprisal; physical distance from legal offices, police stations and courts; and an inability to pay necessary fees and costs. At the same time, children also face specific additional obstacles:

- Remedial mechanisms are not adapted to children's particular rights and needs, and are not equipped to adequately accommodate complaints from children.
- Children are dependent on adults' good will to inform and support them in all senses, including financially, logistically, and emotionally.
- Children often lack standing, meaning that they are not considered eligible to initiate and participate in legal or quasi-legal proceedings on account of their age.

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<sup>12</sup> Remedy refers to the manner in which a right is enforced or satisfied by a court or other mechanism.

<sup>13</sup> See for example article 8 of the Universal Declaration of Human Rights, and article 2 of the International Covenant on Civil and Political Rights.

<sup>14</sup> General comment No. 5 on General measures of implementation of the Convention on the Rights of the Child, Committee on the Rights of the Child, CRC/GC/2003/5, 2003, para. 24.

<sup>15</sup> UN Guiding Principles on Business and Human Rights, Principles 25-31 (the 'Third Pillar'). The responsibility of a business to provide a remedy is integral to a business's responsibility to respect human rights, as set out in the UN Guiding Principles on Business and Human Rights, Principle 15(c).

<sup>16</sup> General comment No. 16 on State obligations regarding the impact of the business sector on children's rights, Committee on the Rights of the Child, CRC/C/CG/15, 2013, paras. 28, 30, 44.

<sup>17</sup> UN Guiding Principles, paragraph 15.

<sup>18</sup> UN Guiding Principles, paragraph 29.

## II. OPERATIONAL-LEVEL GRIEVANCE MECHANISMS

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### What advantages do operational-level grievance mechanisms offer?

Operational-level grievance mechanisms offer ‘a process for receiving, evaluating and addressing operations-related grievances from affected communities at the level of the company, or project’.<sup>19</sup> These mechanisms can be effective as they promise a relatively informal, flexible, accessible, expedient, cost-effective way to address human rights concerns. Grievance mechanisms often employ dialogue-based procedures like negotiation and mediation, which can make it easier for children to express their concerns. These methods also allow for more creative approaches to redress, and may give children a greater say in the eventual outcome.

Given these advantages, grievance mechanisms can in many ways lower the barriers that children often face to accessing justice. Grievance mechanisms can be bolstered by a full commitment to respecting children’s rights at all levels of the company, including senior management. They can be extended to facilitate engagement with stakeholders in vulnerable situations who might otherwise not have the ability or opportunity to come forward, including children and their representatives. Grievance mechanisms can also build on community institutions and draw from traditional or informal justice systems, reaching children in a place and manner they already understand.<sup>20</sup> If properly adapted to the specific rights, needs and individual situations of children involved, grievance mechanisms can ultimately increase trust in a business and its operations.

### Why should operational-level grievance mechanisms be child-sensitive?

Child-sensitive grievance mechanisms lend integrity to a business’s commitment to respect children’s rights and provide companies a means to improve their operations, activities and relationships. Operational-level grievance mechanisms can help companies to manage risks to their business and reputation, for example, by providing a way to resolve small disputes quickly and fairly.<sup>21</sup> Early and direct resolution can be especially important for children, addressing potential abuses before they have

serious, long-term consequences for children in their formative years of development.

It can be challenging for companies to gather meaningful information about their impacts on children’s rights, and grievance mechanisms can provide valuable insight into both direct and indirect impacts. This enables businesses to identify systemic issues and take active steps to prevent adverse impacts on children, and to preempt disputes before they arise. Similarly, by providing children a means to raise concerns and indicating a willingness to accept accountability, grievance mechanisms can build stronger connections between companies and communities and enhance their social license to operate for years to come.

### When is an operational-level grievance mechanism appropriate?

Importantly, operational-level grievance mechanisms represent just one means for children to raise potential infringements of their rights. Children should have many avenues available to seek redress, both State-based and non-State-based, judicial and non-judicial.<sup>22</sup> These processes must be complementary, and make it possible for children to realize their right to a remedy in accordance with their individual needs and circumstances. In all cases, children should maintain their right to access courts and other available procedures.<sup>23</sup>

Grievance mechanisms are not well suited for all cases, especially those involving allegations of serious and recurring abuse. Factors to consider include the scope and nature of the complaint; the efficiency, reliability and trustworthiness of State-based mechanisms; the apparent severity of the impacts in question on children and the community at large; and the existing community culture towards conflict resolution. Where circumstances indicate that grievance mechanisms could provide an appropriate resolution, it is also critical that these processes do not impede children’s ability to pursue other means of seeking redress at any time.

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<sup>19</sup> Adapted from Addressing Grievances from Project-Affected Communities, guidance for projects and companies on designing grievance mechanisms, International Finance Corporation (IFC), September 2009, p.4.

<sup>20</sup> It should be noted, however, that community institutions and traditional mechanisms often are themselves not sufficiently adapted for children. For more information see for example ‘Informal Justice Systems, Charting a course for human rights-based engagement, UNDP, UNICEF and UN Women, 2012’.

<sup>21</sup> Addressing Grievances from Project-Affected Communities, guidance for projects and companies on designing grievance mechanisms, International Finance Corporation (IFC), September 2009, p.6.

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<sup>22</sup> State-based judicial mechanisms are most often available through court systems, while non-judicial mechanisms might include complaints procedures through Children’s Ombudspersons and other National Human Rights Institutions.

<sup>23</sup> See CRC/GC/16 paragraph 71.

### Box 5: When not to Accept a Grievance

While companies should consider the individual circumstances surrounding every complaint filed, there are certain cases that are better handled by national authorities or State-based mechanisms. These can include complaints that allege criminal conduct, situations where personal safety is at risk, and cases that are too sensitive or complex to be handled internally. Where there are no other reliable, legitimate mechanisms to address a grievance, however, companies may consider expanding the scope of their process to accept and review a complaint.

## How will children know about operational-level grievance mechanisms?

Children cannot use a grievance mechanism if they do not know it exists, and companies should make efforts to ensure that all potentially affected children understand how they can seek redress. Companies can provide children with information about what a grievance mechanism is, why they might want to file a grievance, how the process works, where to seek additional information or support, and what other options are available.

Information about the grievance process should be conveyed in a child-friendly format and manner, such as through a cartoon or video animation, and can be shared through existing channels like schools and youth clubs or with the assistance of children's organizations. Companies may also organize information sessions for children and their parents, or retain a specialized community liaison officer trained to communicate with children.

## When should or shouldn't children access operational-level grievance mechanisms?

Children have the right to participate in decisions that affect them, and should be granted increasing autonomy to exercise this right as their capacities evolve.<sup>24</sup> Children can provide a unique perspective on issues that touch their lives, and are in some ways best able to determine how their rights can be respected. At the same time, children also have a right to be protected, and cannot be expected to take on responsibilities that they will not be able to fulfil.

In the context of operational-level grievance mechanisms, children's rights to participation and protection must be balanced. There might be situations that require limiting children's direct participation, provided that children's grievances can be addressed through other means. These limits can protect children from harm that might occur during the process, including the risk of retribution within the community. As outlined below, three elements are particularly relevant to consider when determining whether and how children can safely participate in a grievance process.

- ✓ Children should take part in grievance processes only if in their best interests

Children's best interests must be paramount in any remedial process that involves them, and children should only be directly engaged with a grievance mechanism when it is in their best interests.<sup>25</sup> Children's best interests should be assessed by trained professionals, fully considering the specific circumstances of the child or children concerned.<sup>26</sup> A best interests assessment would look in detail at a number of elements, including children's views, identity, vulnerability, safety and well-being.

### Box 6: Assessing Children's Best Interests

Best interests assessments should always be undertaken by experts in children's rights and development, who are able to investigate and weigh all of the relevant factors. Primary considerations in assessing children's best interests include:

- The child's views.** Children have a fundamental right to express their view, and a child's desire to participate in a grievance process must be taken into account. Where a child wishes to engage, the need for or suitability of accommodation measures, such as the extra support from a qualified adult, should be explored.
- The child's identity and situation of vulnerability.** Children's identity is influenced by characteristics such as gender, sexual orientation, national origin, religion and beliefs, and personality, and their rights – while universal – are expressed across physical, psychological, social and cultural aspects. These characteristics and aspects shape ability, and each child's situation should be assessed uniquely and holistically.

<sup>25</sup> CRC, Article 3.

<sup>26</sup> Committee on the Rights of the Child's General Comment 14 on the right of the child to have his or her best interests taken as primary consideration, 2013, CRC/C/GC/14.

<sup>24</sup> CRC, Article 12.



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c. **The child's safety and well-being.** If there are reasons to believe that participating in a grievance process would result in harm to the child in question, such as from retaliation or revictimization, other avenues for hearing the child's grievance should be explored. In practice, both current risks to children's safety and integrity and the possibility of future risks following the outcome of the process should be examined.

✓ **Children should take part only after giving informed consent**

Before deciding whether to initiate a grievance process, children should be given information about their rights and the potential benefits and risks of their participation. This information should be clear and accessible, provided in language they understand and in a format and manner adapted to their age and maturity. Children should have sufficient space and time to ask questions, and be offered the assistance of a supportive adult, such as a parent, guardian, educator or child protection professional. Where children do not have the capacity to provide informed consent, the informed consent of their parents or guardian should be sought.

✓ **Children should participate in line with their evolving capacities**

As children's capacities evolve, they may become more able to participate in grievance processes.<sup>27</sup> Children's ability to express themselves may depend not only on their own evolving capacities, but also on social and cultural expectations and on the support available within their families and communities. Ultimately, children's age and maturity should never be seen as reasons to exclude them, but rather as reasons to make grievance mechanisms more child-sensitive.

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<sup>27</sup> See, e.g., *The evolving capacities of the child*, UNICEF and Save the Children, Gerison Lansdown, 2005, p.ix.

# III. CHILD-SENSITIVE OPERATIONAL-LEVEL GRIEVANCE MECHANISMS

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## What makes an operational-level grievance mechanism fit for children?

The UN Guiding Principles set out effectiveness criteria for non-judicial grievance mechanisms, and call for these mechanisms to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and – for operational-level mechanisms – based on engagement and dialogue.<sup>28</sup> To meet these criteria when it comes to complaints that involve children, it is important for businesses to design processes around principles of protection and participation enshrined in the CRC.<sup>29</sup> Companies can take practical steps to build child-sensitive grievance mechanisms, both in terms of policy and operational frameworks. The need for and extent of adaptations necessary may vary with the ways in which children are or might be affected by company operations, although all procedures can and should be made more accessible to children. Among other things, companies can:

- ✓ **Engage with communities in general and with children in particular** through existing children’s groups and associations. These organizations can help to route complaints to suitable places, and act as advisors and advocates in reaching resolution. It is especially important to reach children in the most vulnerable situations, such as ethnic or religious minorities, children with disabilities, indigenous children, migrant children or otherwise disadvantaged children, as they are often both the most likely to be negatively impacted and the most likely to be excluded from remedial mechanisms.
- ✓ **Involve children and communities in designing and shaping the mechanism** as early as possible and through existing structures for child participation, where these exist, in order to build greater trust and buy-in, to create a sense of shared ownership and responsibility, and to ensure the mechanism is fit for purpose when it comes to children.
- ✓ **Establish, maintain and promote contact points that are accessible to children**, staffed by trained professionals, and located in safe places that children can easily reach. Forms for registering complaints should be clear and simple, and assistance should be made available to children upon request.
- ✓ **Have expertise on dealing with children and children’s rights on hand**, for example by appointing a specialized community liaison officer, retaining experts on child participation, providing training on children’s rights and working with children, involving children’s organizations in the handling of grievances, and selecting mediators or facilitators with the expertise and experience necessary to communicate with children.
- ✓ **Promptly resolve grievances and provide timely, customized reparations**, including protective interim measures that limit ongoing and future damage to the individual child or children affected.
- ✓ **Assess children’s rights performance as part of monitoring and evaluation** in order to gauge the extent to which children are able to effectively access and use the grievance mechanism, and that outcomes are fairly reached and delivered.
- ✓ **Make a clear commitment to children’s rights** in policy documents that are relevant to the grievance mechanism, at the highest possible level within the company structure, and make this commitment known throughout the company, contractors and the public.
- ✓ **Incorporate relevant child right provisions**, including from the CRC, in mission statements, codes of conducts and other documents that guide and regulate the company’s operations as they relate to children, and make it clear that breaches of children’s rights would fall under the scope of the mechanism. This could include, for example, a commitment to respect children’s right to be protected from abuse, violence and exploitation.
- ✓ **Make it possible for children to bring complaints directly as well as through a representative** to allow for children in need of greater assistance or protection to seek the support of a trusted adult. Grievance processes should explicitly consider children in their own right, not just as family members.

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<sup>28</sup> UNGP, Principle 31.

<sup>29</sup> CRC, Articles 3 (best interests of the child), 12 (respect for the views of the child).

### Box 7: Building on Existing Guidance

Many aspects of existing guidance on operational-level grievance mechanisms are built around principles of accessibility that could be expanded to include consideration of children. For example, the Equator Principles, which set environmental and social risk benchmarks for the financial industry, require grievance mechanisms to be understandable, culturally appropriate and readily accessible.<sup>30</sup> Social Accountability International's standard on conflict management and resolution highlights the importance of confidentiality, fairness, non-retaliation and accessibility,<sup>31</sup> and the OECD Guidelines for Multi-National Enterprises mirror the UN Guiding Principles call for accessibility.<sup>32</sup> Similarly, the International Council on Mining and Metals has published guidance based on the principle that communities should face no obstacles in using grievance mechanisms.<sup>33</sup> The Fair Labor Association, which promotes voluntary compliance with international labour standards, maintains a Workplace Code of Conduct that allows for confidential reporting to augment accessibility.<sup>34</sup>

### Box 8: The Role of NGOs

Non-governmental organizations with expertise in children's rights can play a very important role in assisting children to safely and meaningfully participate in grievance mechanisms. Among other things, NGOs can help to reach and inform children and their families about grievance mechanisms and other avenues for redress; serve as a first point of contact; be retained as facilitators or mediators; provide in-person support to children during grievance processes; and bring children's views and experiences into design and monitoring processes. Involving NGOs can also bring credibility to grievance mechanisms, increase trust between communities and companies, facilitate ongoing constructive and respect exchanges, and correct the imbalance in knowledge, resources and power that often exists between businesses and children.<sup>35</sup>

## How can children participate in operational-level grievance mechanisms?

Children may file a grievance themselves, or may become involved in a grievance that someone else has filed. Whenever and however a child engages with a grievance mechanism, it becomes important to consider how they can best participate in the process. As above, it is essential that grievance mechanisms rely on the expertise of trained professionals who know how to engage with children. Grievance processes offer more flexibility than many other avenues of seeking access to justice, and can thus be more readily adapted to facilitate children's right to be heard. Measures to empower children's participation in grievance mechanisms can draw from a number of central principles:<sup>36</sup>

- ✓ **Provide children with full information about the process.** Children should be supported to make informed decisions, and need to have realistic expectations about the grievance process and what it can achieve. They should be informed about their rights in the process, the approach and method, the availability of support and means to access this, possible outcomes, the expected timeframe, and the option to seek redress through other avenues.
- ✓ **Treat each and every child with dignity and respect.** Every child has the right to be treated with dignity and respect for the physical, psychological, social and moral integrity. Care should be taken to establish trust and rapport, and communications should be in child-sensitive language and approached with a non-judgmental attitude that enables children to voice their questions, concerns and ideas.
- ✓ **Enable meaningful participation for all children.** Children should be treated in a caring and sensitive manner, taking into account their personal situation, immediate needs, age, gender, disability and level of maturity. Children facing greater obstacles to participation will need extra support, such as interpreters, communication aids, and same-gender mediators or support persons. Children able to form views should be given an opportunity to participate, and younger children should be supported to share their views in more informal, creative ways. Flexible procedures for submitting complaints and giving evidence, beyond

<sup>30</sup> The Equator Principles, Principle 6, available at: [http://www.equator-principles.com/resources/equator\\_principles\\_III.pdf](http://www.equator-principles.com/resources/equator_principles_III.pdf).

<sup>31</sup> Social Accountability International, SA8000 Guidance Document, p. 122.

<sup>32</sup> OECD Guidelines for Multi-National Enterprises, Chapter 4, Commentary, paragraph 46.

<sup>33</sup> International Council on Mining and Metals, Handling and Resolving Local Level Concerns & Grievances, p. 8

<sup>34</sup> Fair Labor Association, Third-Party Complaint Procedure factsheet, available (in English) at: [http://www.fairlabor.org/sites/default/files/3pc\\_factsheet\\_english.pdf](http://www.fairlabor.org/sites/default/files/3pc_factsheet_english.pdf).

<sup>35</sup> For examples of how NGOs have worked in coordination with operational-level grievance mechanisms, see SHIFT, Mapping Grievance Mechanisms in the Business and Human Rights Arena, available at [https://www.hks.harvard.edu/m-rcbg/CSRI/publications/Report\\_28\\_Mapping.pdf](https://www.hks.harvard.edu/m-rcbg/CSRI/publications/Report_28_Mapping.pdf).

<sup>36</sup> These draw inspiration from the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005).

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formal written submissions, can help children participate more meaningfully in grievance processes.

#### Box 9: Supporting Children's Participation

Children should be heard in a manner adapted to their age and maturity, by professionals with knowledge and expertise in child development and communication. Children can best be heard when they are at ease in a friendly and safe environment, and can respond to questions that are formulated for their level of understanding. Grievance mechanisms can also allow for children to participate in more dynamic ways, including:

- Creative and flexible sharing, for example through stories, pictures, and other forms of artistic expression. Technology may also enable children to share information in more innovative ways, especially children in remote areas.
- Hearing children as a group where many have been affected, with the assistance of children's organizations, schools, online groups, community meetings or other means of bringing children together. It can be more comfortable for children to voice their opinions as a group and among peers.
- Empowering trusted adults, like family members, community leaders or staff from children's organizations, who can represent children throughout the process as requested or required. While children should have the option to participate directly where this is in their best interests, some might prefer to have their views conveyed together with or by trusted adults.

- ✓ **Seek children's views and take these into account.** Children have a right to share their views, and to have these views taken into account. As the quality of children's participation can have a high degree of influence on the outcome of the proceedings, children should be given a chance to express their views on how they wish to participate, the circumstances surrounding their grievance, and the process and its potential outcomes. It should be explained to children how their views have been taken into account, and differences between their views and the eventual outcome should be clearly set out.

- ✓ **Ensure that support persons are available for children.** Throughout the grievance process, children should have access to support persons to help prevent anxiety, stress, duress and revictimization. Support persons might include social workers, psychologists, staff from children's organizations, or other professionals who have been trained to communicate with children. They can play an important role in ensuring that children are properly informed; guiding decisions about whether and how to participate, helping children to engage in discussions; requesting protective measures and necessary accommodations; and directing children to additional resources for psychosocial support.

- ✓ **Protect children's privacy and confidentiality.** Sharing information about children's involvement in a grievance process may endanger children's physical safety; result in emotional harm or stigmatization; discourage children's continued participation; and fundamentally undermine trust. Children's privacy and confidentiality should be safeguarded to the highest degree, including in written or electronic records, and children should never be forced to give personal information. Information that children choose to share as part of the grievance process should never be disclosed to any persons not immediately involved in that process unless there is a legal requirement to do so as may exist in suspected child abuse or criminal activity.



### Box 10: Child-friendly Justice: Practical Considerations

When children come into contact with the law, they should be met with a system that respects their rights and understands their unique situation of vulnerability. As recognized in international and regional human rights standards, this notion of “child-friendly justice” would apply equally in the context of operational-level grievance mechanisms.<sup>37</sup> This means that children may need additional preparation to participate in a grievance process, including adapted timelines, schedules and modalities.

Among other accommodating measures, companies can:

- **Fast track and prioritize processes regarding or impacting children**, recognizing that children have a different sense of time and that delayed or prolonged processes may have particularly adverse effects on children.
- **Help children prepare in advance for mediation or negotiation**, scheduling preliminary meetings with facilitators and offering tutorials like role plays or simulations.
- **Plan a clear and consistent process**, setting expectations for participation at the outset and retaining the same procedures and professionals throughout.
- **Schedule sessions at times suitable for children**, recognizing that children may have school, work and family obligations.
- **Limit the number and duration of sessions**, as children’s attention spans tend to be shorter than adults and they may tire easily.
- **Select a safe, comfortable and relaxed location**, in a neutral space or a place already familiar to the child.
- **Minimize the number of people present in the room**, while still allowing for children to be accompanied by a trusted adult and support person.
- **Be prepared to make further accommodations**, showing flexibility if it becomes clear that the child is not fully comfortable.
- **Ensure children’s safety**, requiring employees to report any suspected incidences of harm and referring cases to child protection services if it becomes apparent that the child’s safety or well-being is at risk.

### What is a child-sensitive outcome?

Adapting to and accommodating children’s meaningful participation in grievance mechanisms will bring about outcomes that are more satisfactory for all parties involved. Participation gives children a stake in the process, and can help them to understand and appreciate how and why a certain outcome can fairly provide redress. The best interests of the child should be a primary consideration in all determinations, and outcomes should be shaped by children’s evolving capacities. Reparations should be tailored to children’s specific situations and individual needs, and provided promptly in order to achieve full redress, reintegration and recovery in line with children’s right to develop physically, psychologically and socially. Reparations should also include reassurances of non-recurrence, which might involve changing a company’s policy or practice.

Outcome agreements should acknowledge and respect children’s full range of rights in the CRC, and make clear how they will be realized, how implementation will be monitored, and what children can do if the outcome is not achieved. Children should be able to understand the nature, scope and terms of reparations, and should be given an opportunity to provide feedback about their experience using the process. They should receive regular progress updates, and be actively engaged in monitoring outcomes. Where appropriate, anonymized information about outcomes can be shared internally and with other relevant actors to show transparency and express good will.

<sup>37</sup> International standards on child-friendly justice include the UN Standard Minimum Rules for the Administration of Justice (the Beijing Rules), UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), UN Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), and UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime; regional standards include the Council of Europe Guidelines on Child-Friendly Justice and Guidelines on Action for Children in the Justice System in Africa. The European Court for Human Rights has also recognized the need to give children special attention in certain circumstances, and the International Criminal Court has a comprehensive framework for children. For a full list of relevant standards, see Child Rights Information Network (CRIN), Child-Friendly Justice and Children’s Rights, available at [https://www.crin.org/en/docs/FileManager/Child-Friendly\\_Justice\\_and\\_Childrens\\_Rights\\_Revised.pdf](https://www.crin.org/en/docs/FileManager/Child-Friendly_Justice_and_Childrens_Rights_Revised.pdf).

## IV. CONCLUSION

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While operational-level grievance mechanisms cannot and should not offer children redress for every potential rights abuse or violation they experience, they can promise adaptable and equitable processes, flexible reparations and speedy resolutions. Participating in grievance processes can empower children to exercise their rights and deliver outcomes in which they are invested, ultimately building stronger, healthier relationships between children, communities and companies. Equally, child-sensitive grievance mechanisms can give companies valuable information about their impacts on children's rights, and help guide systemic, structural efforts to better respect children's rights across corporate activities and operations.

While the case for child-sensitive grievance mechanisms is clear, there are at present few known examples of how children have participated in operational-level grievance mechanisms. There is likewise little information available about whether and how companies have sought to make their grievance mechanisms child-sensitive. It is hoped that this Discussion Paper will serve as inspiration for businesses to give greater consideration to children's rights in developing and implementing operational-level grievance mechanisms. Similarly, companies are encouraged to share information about challenges and notable practices in making grievance mechanisms more child-sensitive, such that business moves towards greater respect for children's rights.

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