

2014



CHILD RIGHTS

AND

CORPORATE SOCIAL

RESPONSIBILITY

IN CHINA



CCR CSR
瑞联稚博

Center for
Child-Rights
and Corporate
Social
Responsibility

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Executive Summary

Beyond being a country that has enjoyed impressive economic growth for over three decades, China is home to 220 million children under the age of 14, according to the National Bureau of Statistics. And according to estimates by the All China Women's Federation, that number climbs to 278 million or 20.53 percent of the population when children under the age of 18 are included. China's minors fall into various categories, with children left behind by migrant parents forming a substantial proportion. Other vulnerable groups include "juvenile workers" (those aged between 16-18 who can legally work but are subject to special conditions), "student workers" (who must intern at a factory during their final year at secondary vocational school), and orphans. It is therefore imperative that Chinese businesses and lawmakers make adequate provisions to protect the youngest and most vulnerable members of society.

Child Rights and CSR

China's boom in business operations, both at home and abroad, has thrown the spotlight on Corporate Social Responsibility (CSR), or "the responsibility of enterprises for their impacts on society." In a country where labour rights affect an enormous percentage of the population and where consumers are increasingly choosing to buy from responsible companies, the number of businesses incorporating child rights into their CSR has begun to increase. But how are businesses in China achieving this? Unfortunately, this remains an underdeveloped topic in Chinese discourse despite advances in the development of related laws, guidelines and measures.

On a judicial level, China has a comprehensive legal framework related to child rights issues and the country has taken numerous other steps to protect children. For example, in 1992 it ratified the Convention on the Rights of the Child (CSR) – the first legally binding international instrument to protect children from discrimination, neglect and abuse – and it also ratified two ILO conventions directly related to child rights. China also launched a labour inspection system in 1993 and formed the UN led Global Compact Local China Network in 2009 with the goal of encouraging state and private enterprises to respect a set of core values in the areas of human rights, including the abolition of child labour. The introduction of other CSR standards developed by international organizations have followed suit, including but not limited to the ISO 26000 by the International Organization for Standardization and the Children's Rights and Business Principles (CRBP) by UNICEF and Save the Children. China too has begun to develop its own set of guidelines aimed towards enhancing and implementing CSR in state-owned enterprises and Chinese industries operating at home and abroad.

Closing Paragraph

CSR in China, as related to child rights, no longer solely focuses on child labour but also

addresses a wider range of concerns including student workers and migrant parents. While some of China's own CSR-related guidelines have been vague in terms of specifically addressing child rights, it is clear that China is stepping up efforts to promote both CSR and the protection of children from a variety of angles. Mandates on the penalties of abusing child rights and guidelines on how to deal with child workers have been published and hundreds of thousands of factories have received internationally recognized certificates regarding human rights in the workplace. But with a large number child labour cases going unreported, there is still much room for strengthening the integration of child rights in CSR practices in China.

Child rights and Corporate Social Responsibility in China

China's rapid development and rising position on the international scene has been front-page news around the world. The country's strong economic growth and expanding business operations, both at home and abroad, have attracted the world's attention. But with these developments also come a number of important questions. What responsibility does China have for its investments in Africa? How can Chinese workers' rights be ensured when competition stiffens and productivity has to increase? How can the Chinese government and its businesses ensure that children of domestic migrant workers are kept out of the factory floors and ensured their right to education?

Corporate Social Responsibility (CSR) is a concept that revolves around the integration of social and environmental concerns in a company's business operations. The rights of a child can be affected, both positively and negatively, in any part of the business process. The responsibility of companies towards children has its basis in legal obligations. However, going beyond the traditional approach of fundraising and charities, more far reaching commitments regarding child rights are becoming an important part of companies' CSR strategies, also in China.

The aim of this paper is to give a brief overview of child rights and CSR in China, as it relates to the work of the Centre for Child-Rights and Corporate Social Responsibility (CCRCSR). Much has been written on child rights, CSR and China, respectively. But there is a shortage of purposeful contributions that focus specifically on the child rights aspects of CSR in China. This paper aims to fill part of that gap.

After a brief background on socio-economic indicators and the situation for children in China, this paper will address child rights at the international level and in China. This will be followed by a presentation of CSR standards that are relevant to actors in China and concluding remarks.

Socio-economic indicators and the situation for children in China

Key points

- » There are approximately 278 million children in China
- » China is developing rapidly in almost all areas of society, but challenges remain such as ensuring a universal social security system
- » China is a party to several of the international instruments that protect child rights

China is the world's most populous country. According to the latest statistics from the National Bureau of Statistics, the total population is over 1.36 billionⁱ of whom over 220 million, or more than 16 per cent of the population, are between 0 and 14 years old. The census did not provide any information about the 0-18 year bracket, but the All China Women's Federation estimates that there are about 278 million children under the age of 18 in the country, comprising 20.53% of the entire population.ⁱⁱ China had an annual birth rate of 12.08‰ in 2013, amounting to 16.4 million births. Meanwhile, the under-five infant mortality rate was 13.2‰ in 2012, or 216,000 deathsⁱⁱⁱ. China relaxed its four-decade-old one-child policy in November 2013, a move that allows couples to have a second child if one spouse is an only child. Previously, a second child was allowed only when both spouses were the only child of their families. However, China has no timetable for creating a comprehensive two-child policy and will stick to the current family planning policy as a basic national policy for the foreseeable future, according to Ms. Li Bin, the head of the National Health and Family Planning Commission^{iv}. China is expected to welcome 1 million additional babies per year because of the policy revision, and the number of additional births will not exceed 2 million^v.

China is an upper middle-income country according to the World Bank. Annual GDP growth for 2013 was 7.7 per cent and GDP per capita in 2012 was USD 6089.56. Official data shows that about 82.49 million people still lived below the national poverty line of RMB 2,300 per year^{vi} at the end of 2013, which is the equivalent of 6.06 per cent of the entire population.^{vii} China ranks 101 in the United Nations Development Programme Human Development Index (HDI) rankings for 2013^{viii} and is far behind neighbouring countries such as Japan, Korea and Russia. However, China is ahead of countries to the south, such as India, Thailand and Vietnam.

Key facts about China

Total population	1.36 billion
Children (0-18)	278 million
Annual GDP growth (2013)	7.7%
GDP per capita (2012)	USD 6089.56
Population below the national poverty line (2013)	6.06%
Human Development Index (2013)	Ranking 101

The situation for children in China is complex and despite a rapid decline in poverty, rising living standards and increased budgetary allocations for things like education and health, challenges do remain. There are also significant regional disparities regarding almost all development indicators that are relevant to children. Although China has a high literacy rate of 95.92%^{ix} and official primary and secondary school enrolment rates in 2012 were 99.9% and 98.3% respectively, there were still many children who failed to receive their compulsory education. According to estimates from the official statistics, around 1.566 million children were facing the risk of being deprived from their rights to compulsory education in 2012.^x

Compared to the wealthiest provinces in China, infant mortality rates are almost five times higher in the most impoverished parts. In fact, the infant mortality rate is significantly higher for girls than boys in China's rural areas. China has a large internal migrant population of around 268.9 million^{xi}, with another 35.8 million migrant children. Furthermore, around 28.8 million of these migrant children are from rural areas. Statistics from the All-China Women's Federation show that there are 61 million left-behind children in rural China, close to 53 million of whom are under the age of 14.^{xii} These children who have been left behind in rural areas are at a much higher risk of both physical and psychological harm.

A study conducted by the CCR CSR in 2011 titled *"Listening to the Voice of Young Migrant Workers"*, showed that the negative effects of being left behind were also inherent in the new generation of migrant workers aged 18-22, who themselves were once left behind as children. The experience of being left behind led to feelings of loneliness and the lack of family support has hindered many young workers from developing important skills such as expressing emotions and establishing and maintaining close relationships. Moreover, there are many homeless children in China, though a lack of official data makes it difficult to determine the population of this category. It is known, however, that around 87,000 children, mostly girls and children with disabilities, lived in state operated orphanages in 2009.^{xiii} Children belonging to certain groups, e.g. religious and ethnic minorities, children with disabilities and children infected with or affected by HIV and Aids, are facing discrimination in many parts of the country. Child labour is reportedly widespread in China, but there is no official data concerning its prevalence.

Child rights protection at the international level and in China

Key points

- » The Convention on the Rights of the Child is the most important child rights document and it
- » contains many provisions that are relevant to CSR
- » The convention is legally binding in China
- » There are several laws in China that concern child rights and CSR

Child rights protection at the international level

Child rights are the human rights of a person below the age of 18. In 1989 the UN General Assembly adopted the Convention on the Rights of the Child (CRC). Although there are standards relating to child rights in other UN human rights conventions, the CRC is the first legally binding international document that comprehensively addresses the civil, cultural, economic, political and social rights of a child. The CRC also confirmed that a child, as a human being, is the subject of her or his own rights.

The CRC is complemented by two additional Optional Protocols covering the involvement of children in armed conflict^{xiv} and the sale of children, child prostitution and child pornography.^{xv} Other key building blocks for understanding business and children's rights are ILO Convention No. 138,^{xvi} Concerning Minimum Age for Admission to Employment, and No. 182,^{xvii} Concerning the Worst Forms of Child Labor as well as the African Charter on the Rights and Welfare of the Child^{xviii}, which is the only regional human rights instrument specifically for children and complements the CRC by placing children's rights into an African context.^{xix} The UN Study on Violence against Children^{xx} (2006) and the follow up process associated with this study provides us with a comprehensive, global overview of all forms of violence against children in many different settings including the workplace.

The CRC came into force in 1990 and China ratified the convention two years later. The convention is thus legally binding in China. China has also ratified the optional protocols to the CRC on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict. In addition to the CRC, China is a state party to another five of the nine core United Nations human rights conventions.^{xxi} China has also ratified four of the eight core ILO conventions, including the two conventions on the abolition of child labour.^{xxii}

The CRC covers many rights, including the rights to life, education, health and the right not to be discriminated against, as well as the freedoms of expression and association. All of these rights are important in relation to CSR. Article 32 in the CRC specifically addresses issues relevant for CSR. It states that:

“1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- a) Provide for a minimum age or minimum wages for admission to employment;
- b) Provide for appropriate regulation of the hours and conditions of employment;
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article”

A similar provision is found in the International Covenant on Economic, Social and Cultural Rights (article 10), which China is also bound by.

The CRC also establishes the basic principle of the best interest of the child. The principle entails that the best interest of the child should be the primary consideration for public and private social welfare institutions, courts of law, administrative authorities and legislative bodies when undertaking actions concerning children.

The UN Committee on the Rights of the Child oversees the implementation of the CRC. Each State party is required to submit periodic reports on how the convention is being implemented in their country. China submitted its second State party report in 2003 and the Committee considered the report in 2005. In paragraph 84 of its concluding observations,^{xxiii} in addition to addressing many of the issues listed above, the Committee expressed concern about the absence of specific data on child labour and the lack of legislation and specific administrative regulations defining and protecting children from exploitation in hazardous work. In this respect, the Committee recommended China to:

- » Gather specific disaggregated data on child labour and using this data to develop, in cooperation with working children, effective measures to prevent and eliminate all forms of child labour; and
- » Develop detailed regulations on the forms of hazardous and dangerous work in which all persons under 18 should not be engaged, in consultation with the affected children.

The third and fourth combined State party report was submitted by China in 2010; the response to the concluding observations will be demonstrated in the part below. The committee will start to review the latest State party report in 2013.

Child Rights in China

China has a comprehensive legal framework related to issues that concern children, starting with the constitution. The constitution was amended in 2004 to include a passage on human rights^{xxiv}. Article 33 states that: “The state respects and guarantees human rights”. There are also other provisions in the constitution that relate to children, e.g. rights to education and to develop. The Labour Law of the People’s Republic of China (amended 2009), the Law of People’s Republic of China on the Protection of Minors (amended 2012) and the Provisions on the Prohibition of Using Child Labour (2002) all reiterate the protection of child rights, including the minimum working age (16 years old in China), and specific requirements on the type of work, working time, work intensity and personal protection for juvenile workers aged between 16 to 18 years..^{xxv}

The consequence for an employer who hires underage workers can be severe and includes fines, revoking of the business license, administrative sanctions and even criminal prosecution. The administrative departments of public security shall also order the employer to send the underage workers back to their original places of domicile to their parents or other custodians within a prescribed time limit, and to bear all expenses occurred, including but not limited to transportation, meals, accommodation, etc.

China enacted the Regulations on Labour Security Supervision in 2004, providing a legal basis for a labour security administration’s supervision over the employing entities’ obedience of child rights related provisions. The Labour Contract Law of the People’s Republic of China (amended 2012), the Employment Promotion Law (2007) and the Provisions on Employment Services and Employment Management (2007) standardized the hiring practices of employers and prohibited employment agencies from introducing children below 16 for employment.^{xxvi}

The so-called ‘juvenile workers’ between the ages of 16 and 18 may be hired, but only under certain conditions pertaining to job type, working hours and a few other conditions. For example, juvenile workers are not allowed to work in hazardous sectors such as agriculture, construction, mining and ship-breaking, or in conditions that contain poisonous or harmful chemical substances or radiation, or conditions that require heavy physical labour, etc. In addition, special measures need to be taken to protect juvenile workers, including providing them with regular medical check-ups.

Furthermore, another category of young workers exists in China: ‘student workers’. In general, student workers refer to interns and work-study programme students working in factories. In China, a secondary vocational school student is required to conduct an internship during the year of graduation, usually in a factory. During the internship, the factory and the school shall coordinate to arrange, manage and monitor the internship programme and are jointly responsible for the occupational safety and health of the interns. Although the legal requirements relating to working hours and contracts are clear, legal uncertainties remain regarding this category of young workers.

Regarding participants in a work-study programme, the Ministry of Education requires that no

entity or individual shall employ students without permission from the school. To govern such arrangements, a tripartite agreement shall be made between the employer, the school and the students. Additionally, if the student workers are below 18 years old, special protective measures provided in related legal provisions shall be guaranteed by the employer.

Provisions relevant for children can also be found in other laws, including the Criminal Law (amended 2011), the Criminal Procedure Law (amended 2012), the Marriage Law (amended 2011), the Law on Adoption (amended 1998), the Law on Maternal and Infant Health Care (amended 2009), the Law on Compulsory Education (amended 2006) and the Labour Law (amended 2007). Following observations made by the CRC and in order to ensure compliance with the CRC, amendments have been made in several of the laws.

The main governmental body responsible for children's issues is the National Working Committee for Children and Women under the State Council. Meanwhile, working committees for children and women at provincial, district and country levels are responsible for formulating and monitoring local child development plans. Between 2001 and 2010 a National Program of Action for Child Development was implemented with the purpose of promoting child development and monitoring the implementation of various international goals in the field of child rights protection. A new national program of action, the *National Program of Action for Child Development in China (2011-2020)*, was then adopted as a follow-up to the program. The new program of action identifies a number of key measures that are needed to meet the requirements of public services related to left-behind children. These include: improving the service mechanisms for left-behind children, raising awareness on the liability of migrant parents and guidance on the emotions and behaviour of left-behind children. The Second National Human Rights Action Plan of China (2012-2015), which was highly consistent with the first Plan with regards to the protection of child rights, stated that the use of child labour was strictly prohibited and employers who violated related provisions would be severely punished.

The ILO has set universal standards for effective labour inspection services: the Labour Inspection Convention, 1947 (No. 81), ratified by 143 member states, and its Protocol of 1995 covering non-commercial services; and the Labour Inspection (Agriculture) Convention, 1969 (No.129), ratified by 50 member states. Although China has not ratified the two Conventions, most of the principles can already be found in both the law and practice of the country.

The legal framework for labour inspection in China is comprised of a significant number of national laws and regulations, accompanied by a broad array of regulations promulgated at national and provincial levels. The rights, duties and scope of operation of labour inspectors are set out in the Labour Law (amended 2007) and the Regulations on Labour Inspection (2004), specifying the responsibilities and duties associated with labour inspection, and strengthening the law enforcement function of its services.

Labour inspection was officially introduced in China in 1993, just before the adoption of the Labour Law in 1994. China has established 3291 labour inspectorates at all levels, staffed by a total of 25,000 labour inspectors.^{xxvii} In 2008, with the creation of the MOHRSS, the Labour Inspection Bureau (LIB) was established within the new Ministry to aid the development of a

national policy and programmes and to provide guidance to labour inspectorates.

Labour inspection in China covers all kinds of enterprises, individual businesses and public institutions with regard to a wide range of labour and social insurance issues, such as employment services and employment relationships, conditions of work, payment of wages, minimum wage, hours of work and annual leave entitlement, social insurance participation and contributions, child labour, special protection of young and women workers, anti-discrimination at work, and so on.

To meet the challenges and explore innovative ways of strengthening labour inspection services, the Chinese Government launched a national pilot project called “Twin Networks Management” (traditional human resource network + e-management network) in 60 cities nationwide in early 2009. Based on experiences gained in Shanghai and Chengdu, the project aims to build a modern, efficient and dynamic labour inspection system capable of providing quality services to all employers and workers. In 2011, the Government decided to roll out the Twin Networks Management practices to all cities across the country.

International and national Corporate Social Responsibility standards relevant to China

Key points

- » There are many international CSR standards and guidelines available that are relevant from a child rights perspective
- » CSR standards are not legally binding, but voluntary undertakings
- » Several Chinese organisations have developed their own CSR standards

There is no universally accepted definition of Corporate Social Responsibility, CSR. A definition that has won widespread acceptance is that of the European Commission. The Commission puts forward a new definition of CSR as “the responsibility of enterprises for their impacts on society” in the renewed EU strategy for corporate social responsibility issued in October of 2011.^{xxviii} In regard to the new definition, respect for applicable legislation, and for collective agreements between social partners, is a prerequisite for meeting that responsibility. To fully meet their corporate social responsibility, enterprises should have a process in place to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and

core strategy in close collaboration with their stakeholders with the aim of:

- » Maximizing the creation of shared value for their owners/shareholders and for their other stakeholders and society at large;
- » Identifying, preventing and mitigating their possible adverse impacts.^{xxix}

The concept of CSR is perhaps best explained by addressing the various standards that have been developed in the field over the years. This report will focus on standards that include child rights either explicitly or implicitly. In the latter cases, child rights are often recognised as part of broader formulated human rights standards and principles.

CSR standards developed under the auspices of international organizations

The point of departure for the child rights aspects of CSR is the Universal Declaration on Human Rights (UDHR), which the UN General Assembly adopted in 1948. In the preamble it is established that 'every organ of society' has a role to play in promoting respect for and securing human rights. This also includes businesses. A handful of documents have been developed over the years that elaborate on key standards related to child rights in the field of CSR. These standards have their foundation in the UDHR and international human rights law. Some of the most relevant documents are: the OECD Guidelines for Multinational Enterprises; the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises Social Policy; the UN Global Compact; the Guiding Principles on Business and Human Rights; the ISO 26000 and the Children's Rights and Business Principles. Although these documents all rest on international human rights instruments, the documents are not legally binding. However, since they are negotiated instruments at the international level and have a basis in international law, they are often referred to as soft law instruments.

The OECD Guidelines for Multinational Enterprises^{xxx} was adopted in 1976 and has since been updated regularly, the latest in May of 2011. The guidelines are recommendations addressed by governments to multinational enterprises that work in or from countries that adhere to the guidelines. The guidelines provide voluntary principles and standards for responsible business conduct in several areas, including human rights. Child rights are not explicitly mentioned, other than the issue of child labour. However, child rights fall under the general human rights principles and standards in the guidelines, which is highlighted in the commentary. The guidelines are recommendations and are thus not legally binding. To date, China is not an adhering country to the guidelines. However, the guidelines apply to companies from adhering countries that are active in China.

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy^{xxxi} was adopted in 1977 and was last updated in 2006. Compared to the OECD guidelines, which cover a broad range of corporate activities, the ILO Tripartite Declaration focuses more specifically on labour issues. The declaration targets governments, employers' and workers'

organisations and the multinational enterprises themselves and sets out principles in the fields of employment, training, conditions of work and life and industrial relations. The declaration itself is not legally binding, but it includes a list of legally binding conventions (and non-binding recommendations) that are also relevant for multinational enterprises. Included in that list are the ILO conventions that China is bound by. Regarding child rights, the declaration contains recommendations on the issues of minimum age for admission to employment or work in order to secure the effective abolition of child labour and the prohibition and elimination of the worst forms of child labour.

The UN Global Compact^{xxxii}, launched in 2000, is a strategic policy initiative that encourages businesses to align their operations and strategies with ten principles in the areas of human rights, labour, environment and anti-corruption. Coupled with the objective of aligning with the ten principles, another objective is to catalyse actions in support of broader UN goals, including the Millennium Development Goals. Under the UN Global Compact, companies should 'embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anti-corruption'. The principles are derived from the UDHR and the ILO's Declaration on Fundamental Principles and Rights at Work. Specifically, principle 1 states that businesses should support and respect the protection of internationally proclaimed human rights. Principle 5 concerns the effective abolition of child labour. Today, the UN Global Compact is the largest voluntary corporate responsibility initiative in the world. The Global Compact was formally introduced to China in 2001, and in 2009 the Global Compact Local China Network was formed. 325 Chinese companies have joined the UN Global Compact Network China, including both state-owned and private companies^{xxxiii}.

In 2005, the UN Secretary-General appointed a Special Representative on Business and Human Rights (SRBHR).^{xxxiv} The task of the SRBHR was, among other issues, to identify and clarify standards of corporate responsibility and accountability regarding human rights. The SRBHR has reported back on his mandate at several occasions and in March 2011 he submitted his final report to the UN Human Rights Council. The final report summarised his work, and presented the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework". The principles outline the steps states should take to foster business respect for human rights. It provides a blueprint for companies to understand and demonstrate respect of human rights and ways to reduce the risk of causing or contributing to an adverse impact on human rights. The principle also includes a set of benchmarks for stakeholders to assess business respect for human rights. The principles are organised under three pillars: the State Duty to Protect; the Corporate Responsibility to Respect; and Access to Effective Remedy. The UN Human Rights Council endorsed the guiding principles in June of 2011.

In 2010, the International Organization for Standardization issued the ISO 26000 Guidance on Social Responsibility.^{xxxv} ISO 26000 is an ISO international standard giving guidance on behaviour and action in the field of social responsibility. ISO 26000 targets not only businesses, but also public sector organisations. In contrast to ISO management system standards, the ISO 26000 is not intended for certification purposes. There are seven core subjects in the ISO 26000, of which human rights and labour practices are two. The ISO 26000 is a detailed document and its

provisions concerning child rights are more far reaching than most other documents. It stipulates a general responsibility for organisations to exercise due diligence to identify, prevent and address actual or potential human rights impacts resulting from their activities or the activities of those with which they have relationships. Activities that can affect or involve children are identified as one area where organisations are more likely to face challenges and dilemmas relating to human rights. Children are also highlighted as a particularly vulnerable group, in part because of their dependent status. The ISO 26000 also refers back to the CRC and states that when taking action that can affect children, primary consideration should be given to the best interests of the child. The instruments further specify certain areas where due consideration to children should be taken. In relation to advertising and marketing, primary consideration should be given to the best interests of vulnerable groups, including children. Regarding community involvement and development issues that organisations partake in, they should encourage the enrolment of children in formal education and contribute to the elimination of barriers to children obtaining an education (such as child labour). ISO 26000 was drafted to be in compliance with the other documents mentioned under this section. China was one of 83 countries that participated in the drafting process. The seven core subjects in the ISO 26000 are:

- » Organizational governance
- » Human rights
- » Labour practices
- » The environment
- » Fair operating practices
- » Consumer issues
- » Community involvement and development

Children's Rights and Business Principles

On 12 March 2012, a landmark document related to children's rights and corporate social responsibility was launched globally. Developed by UNICEF, the UN Global Compact and Save the Children, the Children's Rights and Business Principles (CRBP)^{xxxvi} is the first comprehensive set of principles to guide companies on the full range of actions they can take in the workplace, marketplace and community to respect and support children's rights.

The CRBP identify a range of actions that all businesses should take in order to respect the rights of children and it provides a framework that can be used to prevent and address any adverse impact on children's human rights. The CRBP also aims to encourage businesses to support and advance children's rights. It recognizes the tremendous positive power of businesses large and small, and seeks to promote the best business practices. The principles call on the entire business community around the world to evaluate their impact on the rights of children; and to take action to ensure the well-being of the child.

The development of the principles took place, among other processes, through multi-stakeholder consultations around the world. In China, such consultations were held in Beijing and Shanghai in June 2011 with the purpose of providing input into the drafting process as well as discussing how the principles can be implemented in China.

Principle 1 outlines three core actions to be taken to achieve this corporate responsibility to respect children's rights: policy commitments, due diligence measures and remediation. It also encourages all businesses to go beyond respect for children's rights to the next steps of supporting and promoting children's rights. These actions are based on four basic principles of children's rights: survival and development; concern for their best interests; participation and freedom of expression; and equal treatment regardless of their status such as race, gender or disability.

The remaining nine principles encourage businesses to implement these core actions by considering the impact on children of all their activities and their relationships related to the workplace, marketplace, community and the environment.

In order to make it easier for companies to understand the relevance of the CRBP in relation to their business activities, Save the Children prepared a company assessment tool based on the Principles, which was successfully tested and rolled out in 2013. The tool consists of a set of key questions to which a company can assess its own operations as it relates to the impact on children. In addition, the working group on CRBP which consists of UN Global Compact, Save the Children and UNICEF, has been developing a range of implementation models and approaches that could be used to promote the principles:

» Awareness raising and outreach

- 1** Meet their responsibility to **respect children's rights** and commit to supporting the human rights of children
- 2** Contribute to the **elimination of child labour**, 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



The Children's Rights and Business Principles will be available in all UN official languages and

Portuguese and outreach through UNICEF country offices, Save the Children chapters and Global Compact Local Networks.

» **Tools, guidance and initiatives**

Collect, develop and disseminate information about tools, guidance materials and initiatives that can help businesses implement the Principles.

» **Promoting good practices**

Collect and disseminate examples of good corporate practices whereby the Principles have been implemented in order to help illustrate the Principles' universality and practicality and to inspire other businesses of all sizes, sectors and locations to step up protection and to fulfil child rights.

» **Cross-sector dialogue**

Take action to create opportunities for dialogue, globally and locally, among stakeholders on this key aspect of human rights and business. These may include events, webinars and online forums.

» **Reporting**

Work with existing reporting frameworks, such as the Global Reporting Initiative and the UN Global Compact's Communication on Progress, to encourage businesses to development guidance on how to communicate progress in respecting and supporting children's rights.

» **Working with governments**

Engage with governments and other societal actors on the enabling environment in which businesses operate to ensure that children's rights are respected, protected and fulfilled.

» **Direct engagement opportunities for business**

Regularly take stock of progress and impact and give further consideration to the merits and challenges of the various models for directly engaging businesses on the Principles.

» **Supporting the civil society**

Support the civil society organisations through training and awareness raising as well as collaboration with engaged businesses.

CSR standards developed in China

A number of CSR initiatives have been developed in China. Although many of them contain

references to international standards and laws, they are predominantly based on Chinese laws and policies.

In 2008, the state-owned Assets Supervision and Administration Commission of the State Council (SASAC) issued the *Guidelines to the State-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibilities*^{xxxvii}, which requires state-owned enterprises to enhance the awareness of CSR, actively implement CSR and set an example in legal and honest business operations, resource-saving and environmental protection. Until October 31st, 2013, 630 state-owned enterprises in China have issued their CSR reports.^{xxxviii}

In 2010, the China International Contractors Association (CHINCA) developed a “Guide on Social Responsibility for the Chinese International Contracting Industry”.^{xxxi} In the foreword to the guide, references are made to the UN Global Compact and the ISO 26000. The aim of the guidelines is to establish benchmarks of social responsibility and to encourage enterprises to uphold their global responsibilities and operate overseas contracting projects in a more responsible manner. The guide applies to all relevant activities of Chinese enterprises operating overseas contracting projects, as well as all relevant activities conducted in China that support overseas contracting projects. The guide is fairly detailed and has a section on human rights. Regarding child rights, child labour is included in the guide.

In 2008, the China Federation of Industrial Economics and ten national industrial associations and federations jointly issued the “Guidelines on the Social Responsibility for Industries of China” (GSRI-CHINA)^{xl}. The revision of the Guidelines, GSRI-CHINA 2.0, was issued in May, 2010^{xli}. GSRI-CHINA includes basic principles and requirements related to social responsibility as well as a framework for social responsibility reporting. It targets industrial enterprises and associations and is intended to reflect the ongoing conditions of industries in China. The guidelines have a clear national focus and it uses the laws and policies of China as its scope of reference. GSRI-CHINA has a short section on human rights wherein it is stated that enterprises should ensure that they do not infringe the basic rights and interests as defined by national laws and that equal opportunities should be guaranteed to all employees. Children are mentioned only in relation to vulnerable groups, where it is stated that their rights should be respected and safeguarded.

The Responsible Supply Chain Association (RSCA) under the China National Textile and Apparel Council (CNTAC) has developed the China Social Compliance 9000 for Textile & Apparel Industry (CSC9000T).^{xlii} The CSC9000T is a social responsibility management system targeting textile and apparel related business enterprises, which is based on China’s laws and regulations and international conventions and standards. The CSC9000T makes references to the UDHR, CRC and other international human rights instruments, the UN Global Compact and various ILO conventions. In terms of child rights, similar to many of the other standards, child labour is included. However, compared to the CHINCA guidelines and the GSRI-CHINA, CSC9000T contains recommendations on how to deal with child workers, if they are found. When cases of child labour are found, the enterprise should establish, document and maintain procedures for remediation of the child workers, and guarantee their right to compulsory education. Certain requirements for juvenile workers are also included.

The preferred international standard regarding auditing and certification of work facilities in China is the SA8000.^{xliii} The SA8000 was developed by Social Accountability International and is a certification standard that is based on the UDHR, CRC and ILO conventions. The current version, SA8000:2008, was released in 2008 and is currently being reviewed. The review process will include extensive stakeholder outreach to those who use or are affected by the SA8000 standard. The new code is scheduled to be posted in early 2014.^{xliv} The SA8000 contain nine elements, including child labour, forced and compulsory labour, health and safety, freedom of association and right to collective bargaining, discrimination, disciplinary practices, working hours, remuneration and management systems. As of June 30, 2013, China has had 522 of its facilities certified (where more than 335,000 workers are employed), remaining one of the countries with most SA8000 certifications in the world.^{xlv}

Voluntary initiatives, codes of conduct and certification schemes

There are also numerous voluntary initiatives for businesses that exist with the purpose of addressing a broad range of issues related to CSR, including social and environmental responsibility, supply chain ethics and human rights. The methodologies or operation methods of such initiatives vary; codes of conduct, standardisation and certification criteria and reporting, social audits, fair trading schemes and social investment programmes may all apply. Voluntary initiatives are adopted by companies to express their commitment towards a particular conduct, and do not necessarily require a foundation in legal obligations.

The Global Reporting Initiative (GRI) is a recognised sustainability reporting framework that sets out principles and performance indicators that can be used to measure and report the economic, environmental and social performance of a business. GRI has been active in China since 2007. In 2013, out of the 1231 CSR reports issued by Chinese companies^{xlvi}, 61 were based on the GRI guidelines.^{xlvii}

Summing up Child Rights and CSR in China

The international and national laws in place in China constitute the bottom-line for any business – they are the minimum standards that all companies have to uphold. On top of that, the international and Chinese CSR standards provide further guidance on how to operate a business in line with good practises. The CSR standards are not legally binding and companies do not have to follow them. However, companies often do as they understand the value of a good and

sustainable business operation. A number of other related initiatives exist beyond the laws and CSR standards. There is no upper limit when it comes to good business practices and companies themselves can choose to engage in community projects, improving safety standards and ensuring good advertisement schemes. Companies generally choose to embrace these practices rooted in the understanding that it reflects positively on the business and that consumers place a lot of value in buying products from responsible companies.

Although standards in the CSR field have been expanded to encompass more groups – such as young workers, student workers and working parents – there are still many more issues related to child rights and CSR that merit attention and draw concern in China.

A child rights perspective can be addressed in a comprehensive way and respect and support of children can be integrated into the strategy and all operations of a company, especially since the launch of Children's Rights and Business Principles. Positive action for children's rights can contribute to a stable and sustainable future. It can also improve recruitment, as well as the retention and motivation of the workforce. It can lead to attractive investment, build good will, lower reputational risk and create value for children as consumers.

In China, many delicate issues related to children are caused by the large group of internal migrants. Difficulties in transferring registration to the new place of residence may create obstacles in accessing education and health services. Children are naturally affected by their parents' situation and companies' maternity and paternity policies will also have an impact on the children. The large migration also raises question about employers' duty of care towards the children of migrant labourers. Should companies support education and community programmes? Since not all children join their parents in the search for better employment opportunities, children that are left behind in rural areas and are raised by grandparents or other extended family members are often left in a vulnerable state.

There are many 'young workers', seasonal workers and student interns in Chinese factories. Employers shall respect the rights of these workers and pay close attention to special legal provisions related to minimum age, minimum wage, hours of work, work intensity and prohibited types of work that are not allowed to be carried out by these workers.

There are many state-owned enterprises and corporations that mix private and public capital in China. From a child rights perspective this is interesting since the State, and its subsidiaries, are the primary duty-bearers for the country's human rights obligations. While companies have to abide by the law, the State has to respect, protect and fulfil human rights. When government and business mix, the borders are blurred and new questions are posed when it comes to child rights promotion and protection.

Footnotes

ⁱ See National Bureau of Statistics of China's "Statistical Communiqué of the People's Republic of China on the 2013 National Economic and Social Development" for the latest statistics on China's population. According to an update posted on February 24, 2014, China's population has risen to 1,360.72 million by the end of 2013. Statistics available on <http://www.stats.gov.cn/>

- ii All China Women's Federation, 《全国农村留守儿童、城乡流动儿童状况研究报告》, April, 2013.
- iii See National Bureau of Statistics of China, 2012 updates of the Chinese population, available at: <http://www.stats.gov.cn/>.
- iv SHAN JUAN and ZHAO HUANXIN, "No timetable for family planning policy changes", Page 5, China Daily, March 7, 2014.
- v CAI Fang, director of the Institute of Population and Labour Economics of the Chinese Academy of Social Sciences, "No timetable for family planning policy changes", Page 5, China Daily, March 7, 2014.
- vi The national poverty line was newly adjusted to RMB 2300 Yuan on November 29, 2011, resulting in a higher percentage of people living under the poverty line. According to 2013 statistics on stats.gov.cn, there were 16.50 million less people living below the poverty line than in the previous year. Stats available here: http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html
- vii For various World Bank development indicators related to China, including the data referred to in this paper, see <http://data.worldbank.org/country/china>.
- viii UNDP, Human Development Report 2013 The Rise of the South: Human Progress in a Diverse World, Table 1 Human Development Index and its components, p.144. The report is available at http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf.
- ix See the 6th National Census results.
- x According to the National Bureau of Statistics of P.R. China, there were 96.958985 million pupils in 2012, and the enrolment rate for primary school was 99.9% and that of middle school was 98.3% in the same year. Therefore, a minimum of 96.96 million* (99.9%-98.3%) = 1.55 million failed to go to middle school in 2012; meanwhile, around 96.958985million/6*0.1% = 16.2 thousand failed to go to primary school. Data and statistics in this paragraph are available at <http://data.stats.gov.cn/workspace/index?m=hgnd>.
- xi See the 6th National Census results.
- xii All China Women's Federation, 《全国农村留守儿童、城乡流动儿童状况研究报告》, April, 2013. "...61 million children in rural area are left behind by their parents who are seeking work elsewhere, 38.4% are aged from 0 to 5 year-old, 32% aged 6-11 year-old, 16.3% aged 12-14 year-old, and 13.3% aged 15-17 year-old..."
- xiii People's Republic of China
Third and fourth combined report on the implementation of the Convention on the Rights of the Child, paragraph 100. The report is available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/434/14/PDF/G1243414.pdf?OpenElement>.
- xiv Optional Protocol on the involvement of children in armed conflict, available on <http://www2.ohchr.org/english/law/crc-conflict.htm>.
- xv Optional Protocol on the sale of children, child prostitution and child pornography, available on <http://www2.ohchr.org/english/law/crc-sale.htm>.
- xvi ILO Convention 138, available on http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312283:NO.
- xvii ILO Convention 182, available on http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312327:NO.
- xviii African Charter of Rights and Welfare of the Child, available on http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf.
- xix The African Charter on the Rights and Welfare of the Child has been ratified by nearly all Member States of the

African Union.

^{xx} UN Study on Violence against Children, available on <http://www.unviolencestudy.org/>.

^{xxi} China has ratified the following UN human rights conventions: CERD (1981), ICESCR (2001), CEDAW (1980), CAT (1988) and ICPD (2008). China has signed, but not ratified ICCPR (1998).

^{xxii} China has ratified ILO conventions 100 (1990), 111 (2006), 138 (1999) and 182 (2002).

^{xxiii} CRC/C/CHN/CO/2, available at: <http://www.ohchr.org/EN/countries/AsiaRegion/Pages/CNIndex.aspx>.

^{xxiv} A translation of the Chinese Constitution is available on http://english.gov.cn/2005-08/05/content_20813.htm.

^{xxv} A translation of the 2006 Law on the Protection of Minors is available on http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383869.htm.

^{xxvi} People's Republic of China

Third and fourth combined report on the implementation of the Convention on the Rights of the Child, paragraph 211.

^{xxvii} Giuseppe Casale and Changyou ZHU, *Labour Administration Reforms in China*, International Labor Office, Geneva, 2013.

^{xxviii} COM(2011) 681, See the European Commission website for CSR, http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm.

^{xxix} Ibid

^{xxx} The OECD Guidelines for Multinational Enterprises can be accessed at <http://mneguidelines.oecd.org/>.

^{xxxi} The ILO Tripartite declaration of principles concerning multinational enterprises and social policy can be accessed at http://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm.

^{xxxii} The website of the UN Global Compact can be accessed at <http://www.unglobalcompact.org/>.

^{xxxiii} Detailed information about the Chinese participating companies can be accessed at http://www.gcchina.org.cn/more_wlcy.php?tid=8.

^{xxxiv} The website of the UNSG Special Representative on business & human rights can be accessed at <http://www.business-humanrights.org/SpecialRepPortal/Home>.

^{xxxv} The website of the ISO26000 can be accessed at <http://www.iso.org/iso/home/standards/management-standards/iso26000.htm>.

^{xxxvi} The CRPB can be accessed at http://www.unglobalcompact.org/issues/human_rights/childrens_principles.html.

^{xxxvii} Available on <http://www.sasac.gov.cn/n2963340/n13933222/14125651.html>, last visit on 26 November, 2012.

^{xxxviii} See http://www.zerenyun.com/csr_maven/responsibilityIndices/reportDistribution_new.jsp.

^{xxxix} The CHINCA website can be accessed at <http://www.chinca.org/en/index.aspx>.

^{xl} See <http://www.csr-china.net/templates/node/index.aspx?nodeid=3596d7f3-799a-4e48-bb94-e492f49538df&page=contentpage&contentid=7884215c-3041-450c-94cc-03091327e56d>, last visited on 9 March, 2014.

^{xli} See http://www.gov.cn/jrzq/2010-05/26/content_1614247.htm, and the revised Guidelines can be accessed from <http://www.csr-china.net/templates/node/index.aspx?nodeid=3596d7f3-799a-4e48-bb94-e492f49538df&page=contentpage&contentid=7884215c-3041-450c-94cc-03091327e56d>.

^{xlii} The CSC9000T can be accessed at http://www.csc9000.org.cn/PDF/SystemDocuments/CSC9000T_ENG_2005.pdf.

^{xliii} The SA8000 can be accessed at http://www.sa-intl.org/data/n_0001/resources/live/2008StdEnglishFinal.pdf.

^{xliv} <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&PageID=1478>.

^{xlv} See the Website of the Social Accountability Certification Services, http://www.saasaccreditation.org/facilities_by_country.htm.

^{xlvi} *The White book of Chinese CSR Reports*, CASS, 2013. See also http://jjckb.xinhuanet.com/2014-01/17/content_487886.htm or in-depth break-downs at <http://www.zerenyun.com/>.

^{xlvii} See <http://www.globalreporting.org/NewsEventsPress/LatestNews/2011/SpecialReportSustainabilityInChinaAndTheFiveYearPlan.htm>.