

CHANGING APPROACHES TO CHILD LABOUR IN GLOBAL SUPPLY CHAINS: EXPLORING THE INFLUENCE OF MULTI-STAKEHOLDER PARTNERSHIPS AND THE UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

MARTIJN BOERSMA*

I INTRODUCTION

Child labour remains a scourge in the modern world. The International Labour Organization ('ILO') estimates there are 168 million child labourers globally, 85 million of which are involved in work that endangers their health, safety and development.¹ Because of the rise of global supply chains as the dominant mode of production and provision of services in the contemporary era, the use of child labour has become intricately connected to companies and consumers around the globe. It is estimated that 60 per cent of global trade in the real economy depends on the supply chains of 50 corporations, which employ only 6 per cent of workers directly and rely on a hidden workforce of 116 million people.² These obscure employment relations increase the chances of companies being implicated in human rights abuses such as child labour. In the context of global supply chains, the use of child labour is 'the last frontier of renewed over-exploitation under networked, global capitalism'.³

Strategies of civil society organisations ('CSOs') such as non-governmental organisations ('NGOs'), religious charities and trade unions have traditionally relied on naming and shaming companies into admitting and addressing the exploitation of children in their operations or supply chains.⁴ Meanwhile, corporate approaches to child labour have mainly revolved around codes of

* University of Technology Sydney; martijn.boersma@uts.edu.au.

1 International Labour Office, *Marking Progress against Child Labour: Global Estimates and Trends 2000–2012* (International Labour Organization, 2013) vii <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_221513.pdf>.

2 International Trade Union Confederation, 'Scandal: Inside the Global Supply Chains of 50 Top Companies' (Report, 2016) 3–4, 6 <<http://www.ituc-csi.org/frontlines-report-2016-scandal>>.

3 Manuel Castells, *End of Millennium: The Information Age: Economy, Society, and Culture* (Wiley-Blackwell, 2nd revised ed, 2009–10) vol 3, 159.

4 Charles J Fombrun, Naomi A Gardberg and Michael L Barnett, 'Opportunity Platforms and Safety Nets: Corporate Citizenship and Reputational Risk' (2000) 105 *Business and Society Review* 85; Daniel Berliner et al, *Labor Standards in International Supply Chains: Aligning Rights and Incentives* (Edward Elgar, 2015) 166–7.

conduct and social auditing.⁵ In recent times, conventional approaches to human rights abuses by businesses are increasingly supplemented by innovative methods such as business partnerships with CSOs⁶ and reliance on the United Nations Guiding Principles on Business and Human Rights ('UNGPs').⁷ Thus far it remains unclear how these developments are linked to strategies of companies and their stakeholders to combat child labour in global supply chains. By gathering the views of CSOs that have worked with and campaigned against companies, this research explores the connection between multi-stakeholder partnerships and the UNGPs with approaches to eradicate child labour, and examines which contemporary approaches to child labour are considered to be effective.

This article is structured as follows. The literature review will discuss the traditional approaches of companies to child labour through codes of conduct and the auditing of suppliers. It will also discuss the traditional methods used by CSOs, which are characterised by awareness-raising activism and brand damage campaigns. The overview of conventional approaches will be followed by a discussion of the increase in partnerships between companies and CSOs and the transformative role of the UNGPs. The literature suggests that while the traditional corporate approaches to child labour are increasingly regarded as ineffective, partnerships with CSOs are marked by challenges as well, which manifest in the tension between activism and collaboration, and the degree of influence corporate stakeholders exert on corporate social responsibility ('CSR') agendas.

Stakeholder theory will inform the theoretical discussion for two reasons. First, the consideration of child labourers as stakeholders is crucial in combatting their exploitation.⁸ Second, existing literature that examines the approaches of CSOs, companies and other actors in the context of CSR often uses stakeholder theory to describe actor dynamics and strategies.⁹ Stakeholder theory

5 Ans Kolk and Rob van Tulder, 'Child Labor and Multinational Conduct: A Comparison of International Business and Stakeholder Codes' (2002) 36 *Journal of Business Ethics* 291; Ans Kolk and Rob van Tulder, 'The Effectiveness of Self-Regulation: Corporate Codes of Conduct and Child Labour' (2002) 20 *European Management Journal* 260; Ans Kolk and Rob van Tulder, 'Ethics in International Business: Multinational Approaches to Child Labor' (2004) 39 *Journal of World Business* 49.

6 Dima Jamali and Tamar Keshishian, 'Uneasy Alliances: Lessons Learned from Partnerships between Businesses and NGOs in the Context of CSR' (2009) 84 *Journal of Business Ethics* 277; Maria May Seitani and Andrew Crane, 'Implementing CSR through Partnerships: Understanding the Selection, Design and Institutionalisation of Nonprofit-Business Partnerships' (2009) 85 *Journal of Business Ethics* 413; Paola Perez-Aleman and Marion Sandilands, 'Building Value at the Top and Bottom of the Global Supply Chain: MNC-NGO Partnerships' (2008) 51(1) *California Management Review* 24.

7 John Ruggie, *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises: Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, UN Doc A/HRC/17/31 (21 March 2011) annex ('*Guiding Principles on Business and Human Rights*'); John Ruggie, 'Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises' (2011) 29 *Netherlands Quarterly of Human Rights* 224.

8 Martin Woodhead, 'Combatting Child Labour: Listen to What the Children Say' (1999) 6 *Childhood* 27.

9 Jon Burchell and Joanne Cook, 'Assessing the Impact of Stakeholder Dialogue: Changing Relationships between NGOs and Companies' (2006) 6 *Journal of Public Affairs* 210; Mariëtte van Huijstee and Pieter

can therefore assist in explaining the connection of multi-stakeholder partnerships and the UNGPs to approaches to child labour. The research will examine how stakeholder attributes, and the stakeholder status of child labourers in particular, are changing now that companies are shifting from codes of conduct and social auditing approaches toward stakeholder partnerships and human rights due diligence.

Interviews are used to explore the experiences of CSOs in working with and campaigning against companies. The interviews discuss the limits of conventional approaches such as corporate self-regulation, the importance of the UNGPs and other internationally agreed upon frameworks, the benefits of taking a preventative, holistic and remedial approach, and the promises and challenges of multi-stakeholder initiatives. In summary, the aims of this research are twofold: practically, it identifies the contemporary approaches to child labour that CSOs consider to be most effective, while it explores how multi-stakeholder partnerships and the UNGPs can be linked to companies addressing child labour on a proactive and pluralistic basis; theoretically, it describes how the move from reactive and paternalistic corporate responses towards proactive and pluralistic approaches by companies influence the stakeholder attributes of child labourers and change their stakeholder status.

II CHILD LABOUR IN GLOBAL SUPPLY CHAINS

The inadequate scope of national laws and regulation to address child labour in global supply chains has long been recognised.¹⁰ In a transnational context marked by governance and enforcement gaps, private regulation and CSR strategies can work as a substitute for the protection of human rights if national legal frameworks are weak or local enforcement is lacking.¹¹ Concerning child labour, corporate self-regulation has traditionally occurred through corporate codes of conduct and social auditing.¹² While codes of conduct have a limited reach and only apply to small fraction of child labourers in global supply chains – as the majority of children work in the informal and dark economy – companies can nevertheless lead the way and set an example for governments and other businesses.¹³

Glasbergen, 'The Practice of Stakeholder Dialogue between Multinationals and NGOs' (2008) 15 *Corporate Social Responsibility and Environmental Management* 298.

10 Diana Winstanley, Joanna Clark and Helena Leeson, 'Approaches to Child Labour in the Supply Chain' (2002) 11 *Business Ethics: A European Review* 210.

11 Luc Fransen and Brian Burgoon, 'A Market for Worker Rights: Explaining Business Support for International Private Labour Regulation' (2012) 19 *Review of International Political Economy* 236; Luc W Fransen and Ans Kolk, 'Global Rule-Setting for Business: A Critical Analysis of Multi-stakeholder Standards' (2007) 14 *Organization* 667.

12 Kolk and Van Tulder, 'Child Labor and Multinational Conduct', above n 5; Kolk and Van Tulder, 'The Effectiveness of Self-Regulation', above n 5; Kolk and Van Tulder, 'Ethics in International Business', above n 5.

13 Kolk and Van Tulder, 'The Effectiveness of Self-Regulation', above n 5.

The shortfalls of existing legal frameworks in a transnational context and the emphasis on self-regulation puts businesses in a position of risk as well as responsibility: companies face the threat of reputational and financial damage by being connected to child labour, and by not addressing the issue correctly, while they simultaneously have the ability and moral responsibility to act as an emancipatory force. Although self-regulation and CSR strategies have become commonplace among companies in the last decades, the approaches and commitments to specific social and environmental issues can vary greatly among companies.¹⁴ Furthermore, critical assessments of corporate self-regulation and CSR have shown that these approaches can unjustly favour corporate interests and therefore frequently result in symbolic rather than substantive outcomes for stakeholders.¹⁵ However, spurred on by the UNGPs, there is evidence that a growing number of companies are changing their approach to human rights by disclosing their actions, explaining why and how they take action, describing what outcomes are achieved, and by outlining next steps.¹⁶

Exactly what corporate approaches to human rights violations such as child labour should look like is a continuing topic of debate. Leeson has identified a three-pronged model of corporate approaches to human rights abuses: ignorance, indifference and involvement.¹⁷ While ignorance and indifference speak for themselves, business involvement is broken down into two approaches: disengagement and engagement. Disengagement, also known as ‘cutting-and-running’, leaves child labourers, their families, and communities worse off, for example, by forcing children to work in the informal and dark economy.¹⁸ In contrast, corporate engagement can be effective if policies and practices are specific, efficiently implemented and monitored, and supplemented with measures to improve working conditions, education and health, and finding alternative income for families.¹⁹

Barrientos and Smith find that corporate codes of conduct can indeed reduce the occurrence of child labour.²⁰ However, their study was limited to upper supply chain tiers, and where child labour had existed, it had largely been

14 Alice Klettner, Thomas Clarke and Martijn Boersma, ‘The Governance of Corporate Sustainability: Empirical Insights into the Development, Leadership and Implementation of Responsible Business Strategy’ (2014) 122 *Journal of Business Ethics* 145.

15 Martijn Boersma, ‘Do No Harm? Procurement of Medical Goods by Australian Companies and Government’ (Report, Australian Nursing and Midwifery Federation and The Australia Institute, March 2017) <http://www.anmf.org.au/documents/Do_No_Harm_Report.pdf>; Martijn Boersma, ‘How Does Sustainable Banking Add Up?’ (Report, Catalyst Australia, July 2015) <http://www.catalyst.org.au/documents/sustainable_banking/How_does_sustainable_banking_add_up.pdf>; Peter Newell, ‘Citizenship, Accountability and Community: The Limits of the CSR Agenda’ (2005) 81 *International Affairs* 541.

16 Shift, ‘Human Rights Reporting: Are Companies Telling Investors What They Need to Know?’ (Report, May 2017) <https://www.shiftproject.org/media/resources/docs/Shift_MaturityofHumanRightsReporting_May2017.pdf>.

17 Winstanley, Clark and Leeson, above n 10, 211–12, citing Helena Leeson, *Towards an Understanding of the Corporate Approach to Human Rights* (PhD Thesis, University of London, 2000).

18 Kolk and Van Tulder, ‘Child Labor and Multinational Conduct’, above n 5, 296–7.

19 Ibid 298; Kolk and Van Tulder, ‘The Effectiveness of Self-Regulation’, above n 5, 270.

20 Stephanie Barrientos and Sally Smith, ‘Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems’ (2007) 28 *Third World Quarterly* 713, 723.

eliminated by legislation and fear among companies of losing business.²¹ Problematically, many child labourers are linked to companies through subcontracting practices further down supply chains, making it difficult to enforce corporate codes and policies, as illustrated by children digging for tin in illegal mines, which through middlemen ended up in Apple products.²² This indicates the need for approaches that go beyond corporate codes of conduct and the auditing of direct operations and suppliers, towards strategies that consider the intricacies of global supply chains. Indeed, there is evidence which suggests that companies, inspired by the UNGPs, increasingly recognise the shortfalls of traditional code of conduct and auditing approaches, and instead have started to explore innovative models to change the existing social compliance paradigm.²³

A The Role of Civil Society Organisations and Partnerships

CSOs such as trade unions, religious charities, NGOs and aid organisations have a strong interest in protecting human rights in global supply chains. Due to their efforts, many instances of child labour have been brought to public attention.²⁴ The efforts of CSOs have been crucial in combatting child labour by means of education, poverty relief and gender equity initiatives.²⁵ Indeed, research shows that a well-educated workforce, poverty reduction and effective social policies can cause a reduction in child labour.²⁶ In their interactions with companies, CSOs have traditionally used contrasting strategies to influence business and effectuate change. Van Huijstee and Glasbergen apply the terms ‘symbolic gain’ and ‘symbolic damage’, introduced by Den Hond and De Bakker, to brand collaborative efforts between CSOs and companies, as well as opposing strategies.²⁷

The ways in which CSOs decide to engage with companies to a large degree depend on how companies decide to approach the issues raised by their stakeholders: non-engagement or paternalist corporate attitudes – presuming to know what is best for stakeholders – are likely to result in activist responses,

21 Ibid.

22 Thomas Clarke and Martijn Boersma, ‘The Governance of Global Value Chains: Unresolved Human Rights, Environmental and Ethical Dilemmas in the Apple Supply Chain’ (2017) 143 *Journal of Business Ethics* 111; BBC One, ‘Apple’s Broken Promises’, *Panorama*, 18 December 2014 (Richard Bilton) <<http://www.bbc.co.uk/programmes/b04vs348>>.

23 Shift, ‘From Audit to Innovation: Advancing Human Rights in Global Supply Chains’ (Report, August 2013) <https://www.shiftproject.org/media/resources/docs/Shift_audittoinnovationsupplychains_2013.pdf>.

24 Rob van Tulder and Ans Kolk, ‘Multinationality and Corporate Ethics: Codes of Conduct in the Sporting Goods Industry’ (2001) 32 *Journal of International Business Studies* 267.

25 Richard Anker, ‘The Economics of Child Labour: A Framework for Measurement’ (2000) 139 *International Labour Review* 257, 272–8.

26 Alessandro Cigno, Furio C Rosati and Lorenzo Guarcello, ‘Does Globalization Increase Child Labor?’ (2002) 30 *World Development* 1579; Peter Jensen and Helena Skyt Nielsen, ‘Child Labour or School Attendance? Evidence from Zambia’ (1997) 10 *Journal of Population Economics* 407.

27 Mariette van Huijstee and Pieter Glasbergen, ‘NGOs Moving Business: An Analysis of Contrasting Strategies’ (2010) 49 *Business & Society* 591, 595, citing Frank den Hond and Frank G A de Bakker, ‘Ideologically Motivated Activism: How Activist Groups Influence Corporate Social Change Activities’ (2007) 32 *Academy of Management Review* 901.

while pluralist engagement by companies – accepting a diversity of views – is more likely to result in collaboration and stakeholder consultation.²⁸ Failure of pluralist models can however still result in civil society activism or paternalist corporate attitudes.²⁹ Indeed, if collaborative efforts fail, CSOs can use symbolic damage campaigns and public pressure to force companies to recognise and address the impacts of their actions while exposing symbolic corporate gestures that lack substance.³⁰

Skippari and Pajunen have stressed the importance of companies responding promptly to public pressure campaigns by CSOs, as ongoing conflict decreases the control that companies can exert over the situation.³¹ In addition, Doh and Guay suggest that CSOs will have a better chance of success when intervening while a company is still developing its response to CSR issues, and that establishing coalitions with other companies, governments and civil society actors also increases the chances of achieving desirable outcomes.³² This illustrates the potential of multi-stakeholder initiatives in addressing the human rights impacts of business, and suggests that CSOs can occupy a strategic position as a mediator between stakeholders.

B The Rise of Multi-stakeholder Initiatives in Global Supply Chains

The existing literature on child labour in global supply chains outlines the need to focus on collaborative approaches, as the issue cannot be resolved on the basis of solo efforts by stakeholders.³³ One of the key benefits of taking a multi-stakeholder approach is that it has the potential to increase the ‘leverage’³⁴ of companies, which refers to the capacity of companies to address harmful practices related to their business operations by influencing their own behaviour, as well as that of suppliers, customers, consumers, and government relations.³⁵

28 Van Huijstee and Glasbergen, ‘NGOs Moving Business’, above n 27, 594–5.

29 Van Huijstee and Glasbergen, ‘The Practice of Stakeholder Dialogue’, above n 9, 300.

30 Sushil Vachani, Jonathan P Doh and Hildy Teegen, ‘NGOs’ Influence on MNEs’ Social Development Strategies in Varying Institutional Contexts: A Transaction Cost Perspective’ (2009) 18 *International Business Review* 446, 454.

31 Mika Skippari and Kalle Pajunen, ‘MNE–NGO–Host Government Relationships in the Escalation of an FDI Conflict’ (2010) 49 *Business & Society* 619, 640–2.

32 Jonathan P Doh and Terrence R Guay, ‘Corporate Social Responsibility, Public Policy, and NGO Activism in Europe and the United States: An Institutional-Stakeholder Perspective’ (2006) 43 *Journal of Management Studies* 47, 59–64.

33 Kolk and Van Tulder, ‘Child Labor and Multinational Conduct’, above n 5; Kolk and Van Tulder, ‘The Effectiveness of Self-Regulation’, above n 5; Ambika Zutshi, Andrew Creed and Amrik Sohal, ‘Child Labour and Supply Chain: Profitability or (Mis)management’ (2009) 21 *European Business Review* 42.

34 *Guiding Principles on Business and Human Rights*, UN Doc A/HRC/17/31, annex 18. The commentary on Guiding Principle 19 states:

Where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm.

35 Shift, ‘Using Leverage in Business Relationships to Reduce Human Rights Risks’ (Workshop Report No 4, November 2013) 7 <https://www.shiftproject.org/media/resources/docs/Shift_leverageUNGPs_2013.pdf>.

In the context of global supply chains, partnerships between companies and CSOs have the capacity to be mutually beneficial. For example, while CSOs such as trade unions are important actors in combating child labour, the globalisation of production has made organised labour 'disaggregated in its performance, fragmented in its organization, diversified in its existence, divided in its collective action'.³⁶ Conversely, the global fragmentation of production has substantially changed the employment relationship, making it increasingly difficult for companies to establish meaningful relationships with workers in supply chains.³⁷

Consequently, the traditional role of trade unions and worker representatives in protecting labour and human rights, as well as attempts by companies to manage the employer–employee relationship, are increasingly supplemented by CSR strategies and the efforts of multiple stakeholders to avoid and remediate worker exploitation in global supply chains.³⁸ Although there are questions about the relevance of national trade unions in global supply chains, particularly as child labour and CSR issues in transnational contexts transcend local settings, worker representation has the ability to internationalise activities.³⁹ As such, CSOs are important actors for companies to consider in formulating CSR strategies, while CSOs can benefit and increase their influence by choosing cooperative rather than antagonising methods of engagement.

Preuss, Haunschild and Matten have examined the respective roles that worker representatives and corporate management play in effectively formulating and implementing CSR strategies in global operations.⁴⁰ They found that management and worker representatives exercised different degrees of influence: management responded reactively as well as actively to issues, while worker representatives actively requested social responsibility audits, and convinced management to turn voluntary CSR agendas into binding commitments on forced and child labour, equal pay, health and training.⁴¹ Furthermore, worker representatives were shown to develop pragmatic strategies in dealing with the tensions between management paradigms and local institutions. Finally, worker representatives also used CSR agendas to establish collaborative ties with other corporate stakeholders such as NGOs.⁴²

36 Manuel Castells, *The Rise of the Network Society: The Information Age: Economy, Society, and Culture* (Wiley-Blackwell, 2nd revised ed, 2009–10) vol 1, 506.

37 International Trade Union Confederation, above n 2, 3–4, 6.

38 Lutz Preuss, 'A Reluctant Stakeholder? On the Perception of Corporate Social Responsibility among European Trade Unions' (2008) 17 *Business Ethics: A European Review* 149; Lutz Preuss, Axel Haunschild and Dirk Matten, 'The Rise of CSR: Implications for HRM and Employee Representation' (2009) 20 *International Journal of Human Resource Management* 953; Lutz Preuss, Axel Haunschild and Dirk Matten, 'Trade Unions and CSR: A European Research Agenda' (2006) 6 *Journal of Public Affairs* 256.

39 Ariane Berthoin Antal and André Sobczak, 'Corporate Social Responsibility in France: A Mix of National Traditions and International Influences' (2007) 46 *Business & Society* 9, 26–7.

40 Preuss, Haunschild and Matten, 'The Rise of CSR', above n 38; Preuss, above n 38; Preuss, Haunschild and Matten, 'Trade Unions and CSR', above n 38.

41 Preuss, Haunschild and Matten, 'The Rise of CSR', above n 38, 964.

42 Ibid.

It is important to note that multi-stakeholder partnerships are not devoid of challenges.⁴³ As discussed, although child labour cannot be effectively addressed solely through corporate self-regulation and solo efforts of stakeholders, thus indicating the need for collaborative approaches, the failure of pluralist models can still result in activism by CSOs and paternalist attitudes by companies.⁴⁴ Furthermore, Preuss, Haunschild and Matten argue that companies strive to keep a first-mover advantage in developing CSR agendas and strategies, and want to have the ability to exclude stakeholders from doing so, while CSOs want to actively shape the CSR agenda and strategies of companies and avoid losing influence over this process.⁴⁵ These dynamics create potential stakeholder tensions in addressing child labour in supply chains.

C The Influence of the Human Rights Agenda

Corporate approaches to child labour are characterised by the question of whether management wants to take a conservative approach by following mainstream CSR approaches, and therefore adhere to the principles of shareholder value, or instead aim to be industry leaders by focusing on addressing stakeholder values.⁴⁶ This shows that CSR strategies are diverse and can be placed on a spectrum that ranges from conventional to progressive.⁴⁷ This also holds true for corporate approaches to human rights. While human rights have been part of CSR agendas for a considerable time,⁴⁸ the endorsement of the UNGPs by the United Nations Human Rights Council in 2011 designates a new frontier in approaching human rights impacts and responsibilities of companies.

The UNGPs provide guidance for the implementation of the 'Protect, Respect and Remedy' framework by advising governments and companies on how to prevent and remediate the human rights impacts of business activities. The UNGPs aim to move beyond the existing dichotomy between voluntarism and legalistic approaches to human rights by promoting a framework based on three pillars: (1) the state duty to protect human rights; (2) the corporate responsibility to respect human rights; and (3) 'greater access by victims to effective remedy, both judicial and non-judicial'.⁴⁹ Importantly, by making a distinction between 'duties to protect' and 'responsibilities to respect', it is made clear that

43 Jamali and Keshishian, above n 6.

44 Van Huijstee and Glasbergen, 'The Practice of Stakeholder Dialogue', above n 9.

45 Preuss, Haunschild and Matten, 'The Rise of CSR', above n 38, 968; see, eg, Preuss, Haunschild and Matten, 'Trade Unions and CSR', above n 38, 258–9.

46 Kolk and Van Tulder, 'Ethics in International Business', above n 5, 58.

47 Wayne Visser, 'The Age of Responsibility: CSR 2.0 and the New DNA of Business' (2010) 5(3) *Journal of Business Systems, Governance and Ethics* 7.

48 Richard Welford, 'Globalization, Corporate Social Responsibility and Human Rights' (2002) 9 *Corporate Social Responsibility and Environmental Management* 1; John Gerard Ruggie, 'Business and Human Rights: The Evolving International Agenda' (2007) 101 *American Journal of International Law* 819.

49 John Ruggie, *Just Business: Multinational Corporations and Human Rights* (WW Norton & Co, 2013) xx–xxi.

companies are not expected to assume the role of the state to prevent human rights abuses that are committed by others.⁵⁰

In addition to the ‘Protect, Respect and Remedy’ framework, a crucially important element of the UNGPs is formed by human rights due diligence, or preliminary human rights risk assessments: ‘In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts’.⁵¹ This requirement imposes a responsibility on companies to be aware of, monitor and mitigate human rights impacts of their business activities. John Ruggie, the author of the ‘Protect, Respect and Remedy’ Framework and the UNGPs, describes human rights due diligence as ‘[t]he ability of a business enterprise to *know and show* that it respects rights’.⁵² Therefore, the promise of human rights due diligence lies in the increased awareness and public accountability of companies concerning their human rights impacts.⁵³

Indeed, due diligence lies at the centre of the corporate responsibility to respect human rights as conceptualised by the UNGPs.⁵⁴ The emphasis of the UNGPs on human rights due diligence denotes a distinctive precautionary turn in corporate approaches to (potential) human rights abuses such as the occurrence of child labour. Importantly, another implication of the UNGPs is that the responsibility of companies not to infringe on human rights does not stop at direct impacts, but extends to impacts linked to operations throughout the value chain.⁵⁵ This explicit reference to responsibility beyond direct human rights impacts means that corporate responsibility also concerns the human rights impacts of suppliers.

III CHANGES IN APPROACHES TO CHILD LABOUR AND THE STATUS OF CHILD LABOURERS

The literature shows the influence of multi-stakeholder partnerships and the UNGPs on CSR strategies in global supply chains, as well as on the human rights responsibilities of business. Research has thus far not explicitly addressed the influence of multi-stakeholder partnerships and the UNGPs on the strategies of

50 Justine Nolan and Luke Taylor, ‘Corporate Responsibility for Economic, Social and Cultural Rights: Rights in Search of a Remedy?’ (2009) 87 *Journal of Business Ethics* 433, 442–3.

51 Ruggie, ‘Report of the Special Representative of the Secretary-General’, above n 7, 240.

52 John G Ruggie, ‘The Construction of the UN “Protect, Respect and Remedy” Framework for Business and Human Rights’ (Speech delivered at the Sir Geoffrey Chandler Speaker Series, The Royal Society for the Encouragement of the Arts, Manufacturers and Commerce, London, 11 January 2011) 7 (emphasis added) <http://www.ohchr.org/Documents/Press/ChandlerLecture_Final.pdf>.

53 Brynn O’Brien and Martijn Boersma, ‘Human Rights in the Supply Chains of Australian Businesses: Opportunities for Legislative Reform’ (Report, Catalyst Australia and The Australia Institute, 1 September 2016) <http://catalyst.org.au/documents/Human_Rights_in_the_Supply_Chains_of_Australian_Businesses_-_Opportunities_for_Legislative_Reform_FINAL.pdf>.

54 Björn FASTERLING and Geert DEMUIJNCK, ‘Human Rights in the Void? Due Diligence in the UN Guiding Principles on Business and Human Rights’ (2013) 116 *Journal of Business Ethics* 799.

55 See Ruggie, *Just Business*, above n 49.

companies and stakeholders to eradicate child labour in supply chains, nor does the literature discuss the effectiveness of these strategies. The practical contribution of this article therefore revolves around identifying the contemporary approaches to child labour that are considered to be most effective, based on the views of CSOs that have worked with and campaigned against companies. It will be suggested that stakeholder partnerships and the UNGPs can be linked to companies taking a proactive and pluralistic approach to child labour, instead of approaching the issue on a reactive and paternalistic basis.

Stakeholder theory will be used to explain the consequences of these developments for the stakeholder attributes of child labourers and their status as corporate stakeholders. Stakeholder theory, which emphasises the role of morals and values in managing organisations and explaining their actions,⁵⁶ is well-suited to explain corporate approaches to child labour. According to Freeman, stakeholders of companies are those individuals or groups that benefit from or are harmed by corporate activities, and can thus include managers, employees, customers, suppliers, governments, and broader communities in which companies operate.⁵⁷ In essence, stakeholders have a relationship with a company, whether that is based on employment, transaction or any other impact that the company may have that forms the basis on which individuals, groups or organisations make their stake known.⁵⁸

A common misconception of stakeholder theory is that companies should treat all stakeholder concerns equally.⁵⁹ Instead, it is suggested that the prioritisation of (competing) interests is determined by *power* (which has a coercive, utilitarian or a normative basis), *legitimacy* (individual, organisational or societal), and *urgency* (time sensitivity or criticality to stakeholder).⁶⁰ This distinction leads Mitchell, Agle and Wood to brand stakeholders as *non-stakeholders* when no attributes are present, *latent* where the corporation only perceives one attribute to be present, *expectant* in cases where two attributes are present, and *definitive* in cases where all three stakeholder attributes are perceived to be present.⁶¹ They categorise different stakeholder groups on the basis of the combination of these attributes, as can be seen in Table 1.

Based on Leeson's three-pronged model of corporate approaches to human rights abuses, and Mitchell, Agle and Wood's stakeholder classification model, individuals can be regarded as non-stakeholders in those instances where

56 R Edward Freeman, *Strategic Management: A Stakeholder Approach* (Cambridge University Press, first published in 1984, 2010 ed).

57 R Edward Freeman, 'A Stakeholder Theory of the Modern Corporation' in Laura P Hartman (ed), *Perspectives in Business Ethics* (McGraw-Hill Irwin, 3rd ed, 2005) 112, 115–17.

58 Ronald K Mitchell, Bradley R Agle and Donna J Wood, 'Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts' (1997) 22 *Academy of Management Review* 853.

59 Robert Phillips, R Edward Freeman and Andrew C Wicks, 'What Stakeholder Theory Is Not' (2003) 13 *Business Ethics Quarterly* 479, 488–90.

60 Mitchell, Agle and Wood, above n 58, 872–9.

61 *Ibid.*

companies are ignorant or indifferent to human rights violations.⁶² Traditionally, in those instances where companies do recognise the stakeholder status of certain individuals and groups, stakeholders have been subject to discretionary CSR or philanthropy,⁶³ which means that CSR occurred at the discretion of corporate managers. Following the model by Mitchell, Agle and Wood, in such cases, individuals or groups are recognised as latent stakeholders whose interests are based on legitimacy, which has an organisational basis at the discretion of corporate management.⁶⁴

However, the literature suggests that such approaches are becoming outdated, as the consideration of exploited children as the central stakeholder in efforts to address child labour is critical in order to ensure approaches are context appropriate, sustainable and child-centred.⁶⁵ The UNGPs also make suggestions about the ways in which corporations should approach stakeholders and their interests. For example, Guiding Principle 24 states that: ‘Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable’.⁶⁶

Summarising, the rise of business partnerships with CSOs has made collaborative approaches to child labour more common; the increase of human rights due diligence is indicative of a precautionary turn in corporate approaches to (potential) human rights abuses; while the UNGPs suggest ways in which companies ought to prioritise stakeholders and their interests. Consequently, there are grounds to believe that traditional corporate approaches to CSR and stakeholders, and therefore to child labour and child labourers as stakeholders, are fundamentally changing.

62 Winstanley, Clark and Leeson, above n 10, 211–12, citing Leeson, above n 17; Mitchell, Agle and Wood, above n 58, 872–9.

63 Archie B Carroll, ‘A Three-Dimensional Conceptual Model of Corporate Performance’ (1979) 4 *Academy of Management Review* 497; Archie B Carroll, ‘The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders’ (1991) 34(4) *Business Horizons* 39.

64 Carroll, ‘A Three-Dimensional Conceptual Model of Corporate Performance’, above n 63; Carroll, ‘The Pyramid of Corporate Social Responsibility’, above n 63, 43–4.

65 Woodhead, above n 8, 28.

66 *Guiding Principles on Business and Human Rights*, UN Doc A/HRC/17/31, annex Guiding Principle 24.

Table 1: Stakeholder Typology⁶⁷

Power	Legitimacy	Urgency	Stakeholder Type
√			Dormant
	√		Discretionary
		√	Demanding
√	√		Dominant
√		√	Dangerous
	√	√	Dependent
√	√	√	Definitive
Classification			
No attributes: Non-stakeholder			
One attribute: Latent stakeholder			
Two attributes: Expectant stakeholder			
Three attributes: Definitive stakeholder			

IV METHODOLOGY AND FINDINGS

Data was gathered as part of a child labour research project by Catalyst Australia, a progressive think tank.⁶⁸ Interview questions were developed to gather the views of CSOs and companies about their approaches to and experiences with child labour. Potential respondents were approached through networking efforts. The response rate varied: national unions (3), peak bodies (1), global union federations (3), faith-based organisations (4) and NGOs (3) participated enthusiastically. Participants were based in Australia, apart from the global union federations, one national union and one NGO. Participants either directly engaged in child labour campaigns or their organisation had been involved in such campaigns. Examples of focus areas of campaigns are the cacao industry in Africa, the rug industry in South Asia, hazelnut production in Turkey, and leather stitching and textile production in Southeast Asia.

Corporate responses to interview requests were disappointing: only one company provided insights on a confidential basis. The comments made by the company respondent are excluded from the analysis, on the basis of the low corporate response rate. Excluding the corporate respondent, 14 interviews were conducted, which is an appropriate sample size for an exploratory qualitative

⁶⁷ Adapted from Mitchell, Agle and Wood, above n 58.

⁶⁸ Martijn Boersma, Gabrielle Lynch and Jo-anne Schofield, 'Child Labour: Everybody's Business' (Report, Catalyst Australia, October 2014) <http://www.catalyst.org.au/images/pdf/Child_Labour_Report.pdf>.

study using interviews.⁶⁹ The interviews lasted between an hour and an hour and a half and were conducted on a semi-structured basis. They explored four topic areas: understanding an organisation's role in relation to child labour, describing the context in which child labour occurs, what approaches to child labour are and are not working, and what guidance is available to organisations and what is missing. The interviews were analysed in NVivo and coded following three procedures: *data reduction* (reducing and organising data), *data display* (visualising data patterns) and *verification* (developing conclusions).⁷⁰ The data reduction stage consisted of *open coding* (assigning each statement with a code), *axial coding* (ensuring the exclusivity of coding categories), *analysis* (searching for patterns in codes) and *selective coding* (searching for raw data that illustrates the analysis).⁷¹ By ordering codes into higher order themes, the analysis uncovered the general dimension of the interview statements, as is illustrated in Table 2.

A Results and Findings

The following sections describe the themes that emerged while coding the interviews and offer a concise summary using illustrative quotes. Respondents from CSOs participated on the basis that their names and organisations would be listed in the original research report, but that quotes would not be ascribed to them. The responses have been assigned in-text numbers in order to demonstrate the breadth of responses, while the frequency column in Table 2 shows the number of times the higher order themes were touched upon across the sample. The following sections will discuss the limits of corporate self-regulation and auditing, the influence of the UNGPs and similar authoritative frameworks, taking a holistic and preventative approach, remediation of child labour, and the promises and challenges of multi-stakeholder initiatives. Following these summaries, the findings will be discussed in the light of the literature and theory.

1 *Limits of Corporate Self-Regulation and Auditing*

A common critique on corporate self-regulation concerning child labour, for example through codes of conduct and supply chain auditing, is that these are often unaccompanied by action, and lack teeth resulting from their non-legal nature: [#6] 'What [companies] often now do is have statements on their website or they'll have a mission [but] what you need to have are enforceable labour standards in all countries'. Another illustration of the shortfalls of self-regulation is the fact that companies cannot rely on strong institutional settings and enforcement in certain jurisdictions: [#7] 'Sometimes it is the case that the domestic [child labour] laws have not actually been enabled. In other cases, the laws are on the books but there's no compliance and no enforcement'.

69 See David Silverman, *Doing Qualitative Research* (SAGE, 4th ed, 2013).

70 Matthew B Miles and A Michael Huberman, *Qualitative Data Analysis: An Expanded Sourcebook* (SAGE, 2nd ed, 1994) 10–12.

71 *Ibid* 55–72.

Consequently, in order for corporate policies to be meaningful and have practical value, companies need to take local legal settings into account.

Furthermore, the auditing of supply chains is regarded as largely symbolic, ineffective, and subject to manipulation. The respondents stated that the responsibility for monitoring supply chains is something that [#6] ‘most companies ... don’t take seriously’. Companies were described as engaging in modest rather than stringent efforts: [#7] ‘Retailers have not put any effort into assuring their supply chain or they have engaged in make-believe practices’. It was pointed out that the concept of tiers is outdated: [#3] ‘I don’t think tier has any meaning anymore ... a lot of businesses and codes of conduct, multi-stakeholder and business associations that deal with it still talk of tiers as if it were important and that tiers limit your responsibility. So, you can limit your responsibility to the first tier or the second tier or something like that’.

Respondents described existing supply chain monitoring systems as being good at picking up minor transgressions, but falling short in dealing with criminal intent: [#5] ‘catching the worst offenders is the hardest’. Stakeholder collaboration is seen as an important element of supply chain auditing, as CSOs do not consider auditing to be credible [#2] ‘as long as there’s no worker participation [and] no say of the workers – or the communities’ or in those instances where [#6] ‘a company is monitoring its own supply chain or it’s paying a private firm to audit and monitor it, that is open to exploitation’.

In addition to codes of conduct that do not consider contextual specifics and supply chain auditing without stakeholder participation, other self-regulatory efforts that are considered to be ineffective include corporate donations to charities or support programs for children, without addressing the negative impact of their own business activities and those of their suppliers: [#3] ‘There was the idea that [when you engage in] child labour in this area, we will give money to an NGO that deals with child labour or we will build a school in the same area that we are resourcing these goods from ... it’s not a question of philanthropy. It’s [a] question of addressing things that are – that you cause, contribute to or that can be linked to you’.

The increased emphasis on local legal frameworks in considering the effectiveness of child labour codes of conduct reflects the interplay between the first pillar (the state duty to protect) and the second pillar (the corporate responsibility to respect) of the ‘Protect, Respect and Remedy’ framework. In addition, the observation that supply chain tiers are not meaningful anymore is closely linked to the view promoted by the UNGPs that the corporate responsibility for human rights does not stop at direct impacts. The move away from conventional approaches to child labour is also shown by the expectation that companies address the human rights impacts of their actual activities, instead of relying on general philanthropic activities. Finally, the growing influence of multi-stakeholder partnerships is apparent in respondents expressing doubts about companies auditing their supply chains without involving workers.

Table 2: Coding Framework

Representative Interview Quotes	Higher-Order Themes	Frequency	General Dimension
[#2] There may be some auditing, or social auditing which we don't find very credible as long as there's no worker participation.	Limits of Corporate Self-Regulation	12	Developing Proactive and Pluralistic Strategies
[#10] We have always said that to address these issues, it's ... going to take civil society, governments and also individuals to play an active role in that.	Stakeholder Collaboration	14	
[#7] [C]hild labour is a bad thing full stop ... is a 16-year-old working as apprentice a good or a bad thing? Well, it very much depends on the industry and the conditions and how they're treated.	Contextual Approach	8	
[#8] I have no problem in naming and shaming companies if that's the last resort.	Reputational Damage	8	
[#1] The OECD guidelines for example can clearly articulate what the responsibility is for companies around ILO standards.	Authoritative Frameworks	11	
[#8] [W]hile child labour needs to be tackled in its own right, if you've got child labour issues in a supply chain you've almost certainly got other labour rights issues.	Holistic Approach	11	
[#14] [W]e're working ... to make a transformative change, rather than just rescue individual children.	Remedial Practices	9	
[#8] [I]f you are working in a country where child labour is endemic, don't wait until something happens.	Due Diligence	10	

2 The Influence of the Authoritative Frameworks

The respondents were critical of conventional CSR strategies and self-regulation, particularly when these initiatives are meant to substitute legislative approaches to child labour otherwise enforced by the state. The reason for this shortfall is that CSR is traditionally viewed as [#12] 'a concept whereby businesses would make contributions above and beyond the law ... for that reason, [CSR] did not have much support by trade unions who saw it largely as a public relations thing or as an opportunity to say, well, we're going to do good, so don't regulate us'.

The respondents noted that CSR strategies and self-regulatory approaches to child labour can obtain credibility by being anchored in internationally agreed upon multilateral frameworks. The UNGPs were mentioned, as were the *ILO*

Child Labour Conventions,⁷² and the Organisation of Economic Cooperation and Development Guidelines for Multinational Enterprises.⁷³ Specifically regarding the UNGPs, it was noted that: [#3] ‘in CSR there was traditionally a big emphasis on the positive impacts and the good that business could do. The [UNGP]s are about the adverse impacts on human rights that business do. That was a big shift’.

The existence of authoritative international frameworks is no guarantee for success however, as conventional corporate approaches to child labour still continue: [#11] ‘A lot of the codes of conduct had the fundamental [ILO] principles and rights at work in them, so they had child labour in them, but they ... mainly involved social auditing of workplaces and factories and that sort of thing. I don’t think that this activity, which I think continues, really was changed very much and it still goes on’. Despite these criticisms, respondents did view corporate self-regulation as a potentially useful tool [#7] ‘where the government is manifestly incapable or unwilling to act’.

In these situations, self-regulation may provide pathways towards mandatory measures, particularly when non-mandatory standards reach a certain degree of penetration in the sector: [#7] ‘industry will actually usually agree to [mandatory measures] after the voluntary standards reach a certain degree of penetration’. Nevertheless, the existence of appropriate laws and the enforcement by the state is regarded as the critical backbone of any effective approach to child labour: [#3] ‘I think there are two things that need to be done when tackling these kinds of issues: one is regulation and the other one is implementation of regulation in companies’.

Codes of conduct, policies and standards, at the company or industry level, should thus first and foremost be seen as a management tool: [#2] ‘It’s for governments and for the international community to set out the rules and it’s within that framework that a tool for a specific company can be developed, but that’s the responsibility of management, for their own internal procedures’. Put differently, the coordination effort should be coming from states. Although voluntary mechanisms can potentially serve as an alternative in the absence of mandatory regulation, and they can provide a pathway towards mandatory measures, ambivalence among respondents towards self-regulation remains: [#6] ‘I don’t think that voluntary schemes that aren’t underpinned by law ultimately work’.

The previous paragraphs again illustrate the importance of the interplay between the first and second pillars of the ‘Protect, Respect and Remedy’ framework. For corporate self-regulation to be seen as credible by CSOs, it needs to be anchored in authoritative frameworks, but ultimately corporate approaches need to be linked to national laws enforced by the state. A direct example of the

72 See, eg, *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, opened for signature 17 June 1999, 2133 UNTS 161 (entered into force 19 November 2000); *Convention on the Minimum Age for Admission to Employment and Work*, opened for signature 26 June 1973, 1015 UNTS 297 (entered into force 19 June 1976).

73 Organisation for Economic Cooperation and Development, *OECD Guidelines for Multinational Enterprises* (OECD Publishing, 2011) <<http://dx.doi.org/10.1787/9789264115415-en>>.

influence of the UNGPs can be seen in re-evaluating philanthropic efforts by companies, which cannot be used to offset a failure to resolve child labour and other human rights abuses. While businesses can undertake philanthropic activities, they are first and foremost expected to address the human rights impacts of their own operations and those of suppliers.

3 Taking a Holistic and Contextual Approach

The importance of a holistic approach in efforts to end child labour was expressly mentioned by respondents: [#8] ‘if you’ve got child labour issues in a supply chain you’ve almost certainly got other labour rights issues. So, it’s in some respects it’s a leading indicator of a supply chain that’s probably unhealthy from a labour rights perspective’. The importance of freedom of association was most commonly mentioned: [#1] ‘you don’t tend to find child labour in properly unionised factories, because the unions wouldn’t stand for it’.

Factors like poverty were also mentioned: [#9] ‘kids of farm workers will work because they need to supplement the family income ... we really have to improve conditions for adult workers – improve pay; improve health and safety so that the farm workers don’t need to send their kids to work as well’. The impacts of the increase of precarious labour and use of outsourcing were also deemed influential: [#11] ‘the farmer uses a labour broker to bring in workers to harvest the crop and it’s now one step removed. ... one of the things that is quite common in agriculture is that a worker is given a task to harvest so much or to weed a certain acreage of land or whatever that is too big for them so they bring in their kids to help’.

Importantly, while child labour needs to be approached through the lens of broader labour and human rights, approaches to child labour must [#10] ‘be industry specific ... what’s needed is not another prescriptive reporting requirement that’s one size fits all’. The reason for this is that companies are learning about their own supply chains, which are constantly changing, as are the potential social impacts: [#8] ‘Whether it’s child labour or living wage or whatever ... What are you doing? How are you breaking your frontiers? What are you learning and how are you sharing that and what are you doing to tackle issues when you see them?’

Another respondent added: [#4] ‘we look very holistically at the issues and in different contexts ... preventative programs through livelihood developments and providing education opportunities and things like that. Also, that protectiveness to reduce the risk of vulnerable children being engaged in exploitative labour practices’. Overall, companies were described as being increasingly, yet modestly, aware of their social impact. Yet, the production in global supply chains does present significant challenges: [#10] ‘companies who operate internationally, directly, I think the standard will be quite high ... when we are talking about supply chains and subcontractors, that is where you get into the issue of having a very unclear relationship with what the standards are in other countries and what is acceptable and what is not’.

The view that child labour should be approached in the broader context of labour and human rights can be linked to the growing influence of the human

rights agenda. In a seemingly contrasting fashion, respondents argue that approaches to child labour must simultaneously also be context-specific, as the conditions that lead to child labour in supply chains are multifaceted and subject to change. The latter observation can be viewed in the context of the ‘know and show’ requirement of the UNGPs, which requires companies to be proactively aware of (potential) instances of human rights abuses such as child labour, although respondents cautioned that the intricacies of global supply chains can easily obscure the bad practices of suppliers.

4 Focusing on Prevention and Remediation

While the respondents anticipated that the UNGPs can help to inform more effective approaches to child labour, the concept of human rights due diligence in particular was seen as having the greatest influence, as it puts companies in the position where they have to proactively ask themselves what an appropriate approach would look like: [#8] ‘if you are sourcing stitched leather goods from Southeast Asia, where child labour is prevalent and it’s prevalent in the region and it’s also prevalent in the activity, then it would seem to me that that due diligence would have to be fairly extraordinary. It would have to be pretty intense in order to deal with the problem with child labour’.

Respondents described different company responses to child labour in their supply chain: cutting ties with businesses, or engaging with businesses or suppliers to lift their game. When taking the cutting-and-running approach, companies lose the chance to act as an emancipatory force: [#13] ‘The worst approach on child labour is you find it and you just simply shut down all your contractors and you do nothing to try and repair the situation. That’s bad practice, particularly if you then move on and you recklessly engage another supplier, where again you don’t bother checking’.

As such, an appropriate response is not simply about shutting down the operations using child labour, but [#12] ‘it’s actually about taking a remedial approach to ensure that the best interest of the child is actually taken into account’. At some point, companies are described as having no other option than to terminate relations in instances where suppliers have not improved their performance: [#8] ‘having done all these things, having involved people, we think this isn’t a relationship that we can live with and doesn’t abide by our ethical code and that sometimes has to happen’.

According to respondents, in choosing the path of remediation, companies should draw on guidance from local and global trade unions and NGOs. A number of examples of remediation were given: [#8] ‘[the company] talked us through what they were planning to do and the approach they were taking to make sure it was in line with best practice, we gave them a few guidance points of what they might do and how they might execute that’. Another example is that of a company changing subcontracting practices, which was [#1] ‘where the problem had crept in’. Independent third-party certification of rugs was mentioned as a successful example of a partnership approach: [#5] ‘retailers and the middlemen have to pay a fee. With that money ... they do inspections. They have built their own schools. So, children who are working in the rug industry

ended up being funded to be able to go to into school, they weren't just dumped out of the industry and left vulnerable to being exploited in another industry'.

These statements suggest that the increased uptake of human rights due diligence has resulted in a shift towards proactive strategies in combating child labour in global supply chains, a development which can be linked to the influence of the UNGPs. In addition, there is a greater emphasis on remediation of child labour instead of cutting-and-running, a trend which is consistent with the third pillar (greater access by victims to effective remedy, judicial and non-judicial) of the 'Protect, Respect and Remedy' framework.⁷⁴ The influence of multi-stakeholder partnerships is noticeable in the emphasis on pluralistic approaches, characterised by an increase in stakeholder consultation in formulating due diligence as well as remediation strategies.

B The Role of Civil Society Organisations

In instances where companies are not responding to stakeholder concerns about child labour, and the legal environment does not provide avenues to address concerns, CSOs have to resort to alternative methods to combat child labour. Frequently recurring strategies are reputational damage campaigns, which are most effective in targeting larger companies and brands: [#13] 'I think reputational damage is more significant for companies that produce consumer goods'. Indeed, the company representative that was interviewed regarded such exposure as a key factor in getting companies to act, particularly in circumstances where a company may be ignoring an issue or is not taking appropriate steps to eliminate child labour in its operations or supply chain.

Civil society respondents confirm this view: [#4] '[the company] initially did not want to meet with union representatives, until there were too many protests from children and schools and it became an issue in the media'. Yet reputational damage campaigns do not work for all companies: [#5] 'their attitude is we're too small for anyone to actually come after us for reputational damage and we don't have many resources, so we don't have to worry about this. ... If I talk to a journalist – if I name a small brand that doesn't have much public exposure, they're not very interested at all'.

Apart from publicly criticising companies, CSOs also address child labour through direct engagement: [#5] 'We approached schools and child labourers to present projects and activities on how to achieve child labour free zones in their regions. They identified products that involve child labour and approached companies which they knew used child labour'. The children engaged companies by flooding them with letters and drawings, after which the company contacted the schools and the CSO to address the issue. Empowerment and mobilisation of school children is a recurring theme and key element in the prevention and

74 *Guiding Principles on Business and Human Rights*, UN Doc A/HRC/17/31, annex 19. It should be noted that the commentary on Guiding Principle 19 states:

There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.

remediation of child labour: [#4] ‘the issue is to get the children out of work into the school, and therefore our partners convince the parents that they should no longer send their child to work’.

Interview respondents also noted caveats concerning activities of CSOs regarding child labour, most notably concerning funding models. It was argued that, unlike national and international trade unions, some NGOs are dependent on donations from business to carry out their work. The danger in such a funding model lies in giving donors a pass because they [#3] ‘are very dependent upon donations from business enterprises to carry out their work with children [and] give passes to companies that give them money and they don’t talk about it in the need of these companies to actually address the impacts of their own activities’.

The interviews show that despite the increase in collaborative approaches to child labour, and the increasing prominence of the human rights agenda, there are situations in which CSOs and other stakeholders raising concerns about child labour are ignored by companies or are treated with indifference. In those instances, CSOs can revert back to reputational damage campaigns to get the attention of companies, and ensure that they address the issues that have been flagged. However, notable shortfalls of this approach are the relative immunity to reputational damage of smaller brands and companies that do not produce consumer goods, while receiving corporate donations can cause conflicts of interest and undermine the independence of NGOs.

C The Benefits of Multi-stakeholder Collaboration

Collaboration between stakeholders was a stand-out theme in the interviews: [#8] ‘invariably one company can do very little – so this is about business teaming up’. These partnerships can involve [#4] ‘companies, trade union representatives, NGOs and then local affiliates or representatives of them and ... government’. Multi-stakeholder collaboration provides [#11] ‘an opportunity for civil society in the relationship they have with businesses, in engaging with companies, influencing them, make them aware’. This approach is valuable because companies do not always understand labour and human rights, and [#8] ‘certainly don’t understand child rights, or child labour and there is a need to campaign against them and I think that [is] sometimes absolutely the right way. There’s also a need to sometimes hold their hand and say ... this is difficult and we understand your concerns and we’ll go on this journey with you to harness, if you like, the company’s ability to improve a situation’.

In order to enable collaboration, it is important for companies to be open about any concerns they might have: [#8] ‘if there are young workers there that they think might either be under the working age or young and working conditions that might be considered child labour, talk to us. ... It’s a high-risk issue for the individual and it’s a high risk for the brand, so therefore, if you see any information which suggests there may be a problem, then work with people who have that level of expertise’.

An example of collaboration between stakeholders involved the ILO convening and facilitating meetings between buyers and suppliers. This allowed suppliers to explain to buyers how demands for low cost goods can turn suppliers

towards exploitative labour: [#5] ‘You expect the products so cheap, but then you want all these labour standards complied with. We’re happy to comply with your labour standards, but we can’t deliver to the price you want it, if you actually want us to pay our workers a decent wage and abide by these labour conditions’.

Another respondent described how they hooked a company up with ‘a local organisation that we knew was competent on child labour so they could do the investigation’. The role of government in multi-stakeholder approaches is also considered important: [#1] ‘through all of this our local partner made sure the local authorities were informed, because they actually have the duty and obligation to tackle the issue’. Moreover, multi-stakeholder collaboration should aim to make universal improvements to the lives of children: [#14] ‘we’re working with stakeholders to make a transformative change, rather than just rescue individual children’.

D The Challenges of Multi-stakeholder Collaboration

Barriers to multi-stakeholder collaboration were also mentioned. Partnerships were regarded as [#12] ‘kind of ad hoc ... we have always said that to address these issues, it needs to be very much a holistic approach that’s going to take civil society, governments and also individuals to play an active role’. CSOs are sceptical about companies trying to remedy child labour in isolation, while stressing that worker participation, mechanisms for industrial relations, and reliance on existing expertise are vital: [#5] ‘Unless you’re [working with] trade unions and you’ve talked to the workers away from the management, everything else is a waste of time’.

Apart from collaboration between diverse stakeholders, companies also engage in industry-led initiatives. Interviewees expressed doubts about the effectiveness of addressing child labour through such mechanisms. Specifically, the closed nature of industry-led initiatives is seen as a downside: [#2] ‘Our experiences with any of these initiatives are very disappointing and have been across the board. ... As long as it’s a child labour closed circuit, self-regulating system and an exchange of best practices only but not on measures taken to act upon any identified risk, it is not necessarily something that we want to invest our time in’.

While industry-led initiatives occasionally include stakeholder consultation, they are often used as a competitive tool [#7] ‘enabling the majority of players in the industry to be certified, knocking out the worst performers [by] setting modest standards to which most of the industry can qualify’. Because of the lack of involvement of CSOs, such initiatives are perceived to be [#7] ‘more about industry window dressing rather than anything of real substance’. While respondents were generally positive about multi-stakeholder collaboration, they also saw a point at which an assessment needed to be made about whether companies were genuine in their efforts. As such, it can be seen multi-stakeholder collaboration in itself is not considered to be a silver bullet. Specifically concerning the cocoa industry in West Africa, it was also mentioned that although there is a degree of cooperation, [#3] ‘no one is putting in the amount of resources that will change things’.

Overall the respondents argued that, instead of establishing partnerships for the sake of it, contextual elements need to be considered, such as the specifics of industries, communities, legislative frameworks, geographical regions, and the interests of stakeholders: [#8] ‘Effective stakeholder approaches involve looking at the individual supply chain, the context, the government and decide if this is an endemic issue, is there something we can do?’ Only in this way can partnerships be productive, and can sufficient leverage be created to effectively deal with child labour.

The respondents’ views highlight several benefits and challenges of multi-stakeholder collaboration. The growing role of business partnerships with CSOs in approaches to child labour can be linked to the influence of the UNGPs, as partnerships and pluralism are considered to be of vital importance in order to overcome the opacity of global supply chains. The increased sharing of information and experiences between companies and their stakeholders can be associated with the ‘know and show’ requirement of the UNGPs. Finally, the interviews show that local government involvement is considered as a key element in collaborative approaches, a finding which echoes the interplay between the first and second pillars of the ‘Protect, Respect and Remedy’ framework.

V DISCUSSION

Against the backdrop of the growing influence of multi-stakeholder partnerships and the UNGPs on corporate responsibility in global supply chains, the objectives of this research are twofold: practically, the research identifies the contemporary approaches to child labour that CSOs consider to be most effective, while it describes how companies are increasingly addressing child labour on a proactive and pluralistic basis by moving away from reactive and paternalistic approaches; theoretically, it explains how these developments influence the stakeholder attributes of child labourers and change their stakeholder status.

A Changing Approaches to Child Labour

The existing literature shows that corporate self-regulation, in the form of codes of conduct and supplier auditing, has traditionally played a key role in approaches of companies to child labour, while CSOs have mostly relied on reputational damage campaigns to effectuate their demands. Yet, the literature also suggests that factors such as the increased fragmentation of production through subcontracting in global supply chains, the rise of multi-stakeholder initiatives, and the increasing importance of the human rights agenda – most prominently through the development of the UNGPs – are changing conventional approaches to child labour.

The interview findings demonstrate the changing views on effective approaches to child labour. It is shown that respondents are only moderately optimistic about corporate self-regulation concerning child labour, and only

regard this practice as useful in the complete absence of government regulation and enforcement. However, corporate self-regulation can gain credibility when it is context-specific and efficiently implemented, while supply-chain auditing can be effective if it involves worker participation. While the interviews echo the literature by confirming that self-regulation increasingly works as a substitute for the protection of workers' rights in the absence of state-based regulation and enforcement, respondents stress that self-regulation is mainly useful as a management tool, which in order to gain legitimacy and achieve outcomes ultimately needs to be anchored in legal frameworks.

When companies encounter child labour, instead of severing ties with suppliers, there is a need for remediation and future prevention through holistic and context-specific strategies. These approaches include promoting decent and secure labour, increasing family income and facilitating school attendance. The interview findings show that child labour is less pronounced in jurisdictions where workers are allowed to organise freely and where there are representative trade unions. To be clear, the interviews show that child labour is more likely to occur in areas where organised labour is suppressed. As such, any company that is serious about dealing with child labour must therefore be serious about enforcing broader labour and human rights.

The interviews suggest a connection between the UNGPs, in particular the concepts of due diligence and remediation, and the shift away from code of conduct and auditing approaches towards human rights risk assessments and taking remedial action. This means that corporate approaches to child labour are taking a distinctive precautionary turn. Indeed, the interviews show that reactive approaches to child labour, decoupled from the actual impact of business activities, are increasingly regarded as bad practice: companies are expected to exercise due diligence in the form of preliminary human rights risk assessments and by proactively monitoring their social impacts. Furthermore, in line with the guidance set out by the UNGPs, the interviews show that business responsibility is not limited by tiers, meaning that companies must approach the risk of child labour in their own operations as well as throughout their entire supply chain.

The interview findings furthermore suggest that in exercising due diligence, and while detecting and remediating child labour, companies should actively seek out stakeholder insights that allow for pragmatic mapping of circumstances, to see which stakeholders they can work with, and what strategies best suit the geographical and industry contexts. It is argued that in the cases where companies do not actively seek out stakeholder insights, they run the risk of being targeted in reputational damage campaigns by CSOs. In adopting collaborative and pluralistic strategies and building on existing stakeholder expertise, companies can play a transformative role in the sectors and regions in which where they operate.

B Changes in Stakeholder Attributes and Stakeholder Status

The traditional code of conduct and tier-based auditing approach to child labour in supply chains meant that companies adopted a reactive and paternalistic attitude towards stakeholders raising child labour concerns: without relying on

stakeholder consultation, codes of conduct and auditing were meant to address the exploitation of children, yet child labour in supply chains was not an issue for companies until it was actually encountered. Considering the typology of Mitchell, Agle and Wood⁷⁵ shown in Table 1, this shows that child labourers were considered as non-stakeholders by companies until child labour was discovered. In instances that companies did discover child labour, companies regarded child labourers as latent stakeholders, meaning that their only stakeholder attribute – legitimacy – was granted at the discretion of corporate managers. This means that child labourers, as corporate stakeholders, have traditionally been subject to discretionary CSR.⁷⁶

While the code of conduct and auditing approach by companies is increasingly considered to be ineffective, the influence of partnerships with civil society equally presents challenges, such as the tensions between activism and partnerships and the struggle of stakeholder to influence CSR agendas and strategies. Preuss, Haunschild and Matten contend that companies want to ensure that they keep their first-mover advantage in setting the CSR agenda, while preventing other stakeholders from doing so, while CSOs will simultaneously attempt to actively shape the CSR agenda and avoid losing influence.⁷⁷ However, the UNGPs may be able to ameliorate these tensions: the shift away from reactive approaches and the increased emphasis on due diligence does not only allow for companies to keep the first-mover advantage in determining its CSR strategies, it *requires* them to be first-movers. In addition, following the increasing importance of partnerships and pluralism companies should actively *include* stakeholders in order to approach child labour in supply chains as effectively as possible, rather than using their first-mover advantage as a way to exclude stakeholders, and allow CSOs to flag issues and contribute items to CSR agendas.

Put differently, the shift from code of conduct and auditing approaches towards due diligence, remediation and multi-stakeholder collaboration can be characterised as a shift from reactive and paternalistic tendencies of companies towards proactive and pluralistic strategies in approaching child labour. Considering the typology of Mitchell, Agle and Wood,⁷⁸ this means that the claims of child labourers gain urgency as a stakeholder attribute, marking a transition from being a discretionary and latent stakeholder towards becoming a dependent and expectant stakeholder. The lack of power as a stakeholder attribute means that child labourers nevertheless continue to depend on the companies themselves, or other stakeholders, to lend them a voice and effectuate demands. This is where CSOs are shown to play an important role.

The interviews demonstrate that CSOs can use both collaborative strategies and reputational damage campaigns to make companies meet their demands and those of child labourers. In line with the typology of Mitchell, Agle and Wood,

75 Mitchell, Agle and Wood, above n 58.

76 Carroll, 'A Three-Dimensional Conceptual Model of Corporate Performance', above n 63, 500; Carroll, 'The Pyramid of Corporate Social Responsibility', above n 63, 42.

77 Preuss, Haunschild and Matten, 'The Rise of CSR', above n 38, 968.

78 Mitchell, Agle and Wood, above n 58.

this means that power can have a normative basis in companies acknowledging the importance of these demands and choosing to collaborate with stakeholders, while power can also have a coercive basis in companies initially denying the importance of claims and provoking a response from CSOs that can harm the reputation of the company. While both strategies have the potential to grant stakeholders power, it does not permanently elevate child labourers to the category of definitive stakeholders; they remain dependant on the efforts of CSOs to give force to their claims. Ultimately, the existence of child labourers as a permanent and definitive corporate stakeholder group is paradoxical, as the efforts of companies, CSO and governments ought to eradicate child labour in global supply chains altogether.

VI CONCLUSION

This research finds that effective approaches to child labour in global supply chains are characterised by companies engaging with a broad range of stakeholders, taking a contextual and holistic approach by considering local circumstances and broader human rights, and by focusing on prevention and remediation. By shifting from code of conduct and auditing based approaches towards stakeholder collaboration and due diligence, companies are moving away from reactive and paternalistic approaches to child labour and instead increasingly adopt proactive and pluralistic strategies. The influence of the UNGPs has the potential to ameliorate some the tensions in multi-stakeholder partnerships by requiring companies to be first movers and using this advantage to include stakeholders rather than exclude them in developing CSR strategies. While these developments can help to elevate child labourers from latent and discretionary stakeholders to expectant and dependent stakeholders, they continue to rely on CSOs to add weight to their claims.

VII LIMITATIONS AND FURTHER RESEARCH

The empirical basis of this study can be expanded by focusing on the perspectives of groups other than CSOs, such as companies, governments, suppliers and the communities affected by child labour. In addition, further research could explore the effects of multi-stakeholder collaboration and the UNGPs on approaches to child labour by narrowing the focus to a specific industry or region. Alternatively, the inquiry can be broadened, for example by examining the interplay of the UNGPs with national laws such as the *Modern Slavery Act 2015* (UK) c 30, which have a human rights focus and are characterised by extraterritorial reach, and can therefore give legal force to the human right duties of companies where local legal systems fall short. Broadening the inquiry could help to ascertain whether the trends identified in this study are also observed in relation to other human rights issues, for example by exploring whether corporate approaches to modern slavery are increasingly associated with

the adoption of proactive and pluralistic strategies and result in changes to the stakeholder status of exploited groups and individuals. Finally, while stakeholder theory can explain the influence of multi-stakeholder partnerships on approaches to child labour, and the findings suggest that the UNGPs can be associated with a move away from reactive and paternalistic corporate approaches towards proactive and pluralistic stakeholder strategies, the specific influence of the UNGPs on approaches to child labour could be further clarified by looking at the issue through a different lens, for example by applying an institutional theory perspective.