

Book Reviews

Gamze Erdem Türkelli, *Children's Rights and Business: Governing Obligations and Responsibility* (Cambridge: Cambridge University Press, 2020)

While the United Nations (UN) Guiding Principles on Business and Human Rights (UNGPs)¹ identify vulnerable groups, children are only specifically mentioned twice,² highlighting the importance of a child rights lens. If considered at all, traditional attention to children in relation to business reflects concern about child labour, but there is much more to consider. Accordingly, the international community has been increasingly interested in the relationship between children's rights and business. Activities including global consultations with children³ have illuminated the myriad of issues. The ten Children's Rights and Business Principles highlight business responsibility for children's rights, child labour, importance of decent work, protection and safety, marketing, environment and land use, security, emergencies, and the roles of government and community.⁴ Actors are exploring and advancing the relationship, including the non-profit foundation Global Child Forum, and the Centre for Child Rights and Business (formerly CCR CSR) which is active throughout Asia and beyond. Yet, academic analysis to date has been limited. With her book, Erdem Türkelli has made a notable contribution to improve awareness and support understanding of how children's rights are relevant to business. Recognizing the fundamental role of states in the international legal framework, the author explores the obligations of non-state actors within and across states and responsibilities for violations of human rights of children as well as pertinent normative developments. The author's priority is analysing 'governing obligations and responsibility in the context of businesses as children's rights duty bearers'.⁵

The book's first section examines this relationship through chronological discussion of several pertinent instruments elaborated over several decades including the UN Global Compact, UNGPs, Organisation for Economic Cooperation and Development (OECD)

Conflicts of interest: The author declares none.

¹ United Nations, General Assembly Human Rights Council, 'Report of the Special Representative of the UN Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie', 21 March 2011, UN Doc. A/HRC/17/31.

² TM Collins, 'The Relationship between Children's Rights and Business' (2014) 18:6 *International Journal of Human Rights* 582–633, <http://dx.doi.org/10.1080/13642987.2014.944805>, note 45, 622.

³ For example, see UNICEF, Global Compact and Save the Children (2012), *How Business Affects Us: Children and Young People Share their Perspectives on How Business Impacts their Lives and Communities*, June–August 2011, https://resourcecentre.savethechildren.net/node/7825/pdf/how_business_affects_us.pdf (accessed 6 April 2021).

⁴ UNICEF, Save the Children and The Global Compact (2012), 'Children's Rights and Business Principles', <https://resourcecentre.savethechildren.net/node/5717/pdf/5717.pdf> (accessed 6 April 2021).

⁵ G Erdem Türkelli, *Children's Rights and Business: Governing Obligations and Responsibility* (Cambridge: Cambridge University Press, 2020), 7.

Guidelines for Multinational Enterprises, Children's Rights and Business Principles, pertinent general comments from the UN Committee on the Rights of the Child (#16) and UN Committee on Economic, Social and Cultural Rights (#24), and the Council of Europe's Recommendation on Human Rights and Business. She also analyses the prospect for a legally binding instrument, similarly taken up by De Schutter⁶ in this journal. The second section involves exploration of several compelling international cases to illustrate two key themes: (1) children's rights in supply chains are probed in management and regulation through child labour and cotton production in Uzbekistan, and mineral extraction and trade in the Democratic Republic of Congo (DRC); and (2) children's rights in investment projects are illustrated through Environmental and Social Impact Assessment (ESIA), consultation and consent, land and livelihood loss in Uganda's Bujagali Hydropower Project and the Transport Sector Development Project. These cases illustrate different children's rights gaps, typically states' obligations, especially in their own territories.

The third section identifies the political and legal dimensions of the relationship to favour a polycentric governance model to resolve 'the mismatch between children's rights (and human rights) impacts of business activities on the ground and the response of international law'.⁷ Relying upon international relations scholarship, polycentric governance reflects on the state and non-state independent decision-makers that 'can make [their] own rules and develop [their] domain of influence', that should be carried out interdependently to realize a shared goal.⁸ The author argues that polycentric governance may support implementation particularly ascertaining and outlining responsibility for violations of rights, and access to remedy. International legal issues of consent by states expose the gap of obligation to respect children's rights. Engrossing discussion and useful questions support exploration of levels of direct and indirect levels of involvement between actor and violation, as well as a specific actor's different types of human rights obligations under the UNGPs' respect, protect and fulfil categorizations. She makes the case to connect responsibility to obligation to appreciate the linkages to issues of power.⁹ Rather than a comprehensive model, given the diversity of 'wrongdoers', a 'case-by-case approach' is advanced to facilitate children's access in governance mechanisms and processes.¹⁰

This book has significance for the business and human rights field for several reasons. There is a strong case for a universal minimum obligation of respect as pertinent for business based on the near-universal applicability of the UN Convention on the Rights of the Child¹¹ and the diverse actors pertinent to this instrument. Her analysis is particularly interesting in relation to questions of responsibility including supply chains, the UNGPs

⁶ O De Schutter, 'Towards a New Treaty on Business and Human Rights' (2016) 1:1 *Business and Human Rights Journal* 41–67, doi: 10.1017/bhj.2015.5.

⁷ Erdem Türkelli, note 5, 245.

⁸ Ibid, 247.

⁹ Ibid, 258.

¹⁰ Ibid, 290.

¹¹ United Nations, *Convention on the Rights of the Child*, 20 November 1989, <http://www2.ohchr.org/english/law/pdf/crc.pdf> (accessed 6 April 2021).

in weak governance contexts or conflict-affected areas, e.g., DRC, traceability and impactability in supply chains, and compliance and non-compliance. Examination of children's rights in investment projects is especially riveting. She also addresses the important question of business responsibility in essential service provision usually considered as public services including education and health care. In addition, lack of domestic legal remedy reflects the ongoing challenge of legal accountability. Erdem Türkelli contributes by proposing expansion of the mandate of the International Criminal Court to facilitate adjudication of business enterprises as defendants. While the author notes that the District Court of The Hague dismissed the claim, there is recent news from the United Kingdom (UK) Court in *Okpabi and others v Royal Dutch Shell*¹² that approximately 50,000 Nigerian farmers and fishers can sue Royal Dutch Shell in the UK's High Court over years of polluting oil spills in the Niger Delta. This ruling is described as a 'a watershed moment in the accountability of multinational companies'.¹³ It remains to be seen whether this book will influence the evolving debate and activities to respond to current international legal gaps, but it provides beneficial guidance about the necessity of focusing on children's rights.

In terms of constructive comments, several elements would have benefited the publication. A key question relates to how children's rights are defined and understood. It is noted that the author particularly emphasises concern with protection throughout due to businesses that violate children's rights including child labour and child sex abuse. While children are traditionally characterised by their vulnerability and protection continues to be a considerable challenge, it does not and should not define their rights. In addition to protection, the UN Convention on the Rights of the Child also includes other rights that have been categorized as provision and participation, known as the 'three Ps'.¹⁴ While it is well-established how children are targeted and exploited by business,¹⁵ there is less exploration about the business roles and opportunities to support children's rights implementation in terms of provision and participation. The author acknowledges longstanding issues with the implementation of economic, social and cultural rights but emphasises protection throughout the publication without due consideration of their interconnections. For instance, details about health and education as examples are generally descriptive in the DRC and Uganda cases. Children's participation in business is unexpectedly under-explored in relation to issues of public voice and consultation; McMellon and Tisdall have identified this as a gap, particularly in stakeholder consultations, ESIA's, etc., which should provide opportunities for children to share their knowledge about business activities in their

¹² *Okpabi and others (Appellants) v Royal Dutch Shell plc and another*, [2021] UKSC 3. Available at: <https://www.supremecourt.uk/cases/docs/uksc-2018-0068-judgment.pdf> (accessed 6 April 2021).

¹³ Leader, cited in S Reed, 'U.K. High Court Says Nigerians Can Sue Shell in Britain Over Oil Spills', *The New York Times* (12 February 2021), <https://www.nytimes.com/2021/02/12/business/shell-oil-spills-nigeria-lawsuit-britain.html> (accessed 6 April 2021).

¹⁴ T Hammarberg, 'The UN Convention on the Rights of the Child – and How to Make it Work' (1990) 12:1 *Human Rights Quarterly* 97–105, <https://doi.org/10.2307/762167> (accessed 6 April 2021).

¹⁵ J Bakan, *Childhood Under Siege: How Big Business Targets Children* (New York: Free Press, 2011).

communities.¹⁶ There are numerous pertinent resources that could have been incorporated about the rights to participation, access to information, etc.¹⁷ ‘Whether intentionally or not, the international discourse related to children and business continues to objectify young people, disempowering them from the debate’.¹⁸ As such, the book highlights business risks, which is a limited, traditional approach. It would have been valuable, particularly for readers new to children’s rights, if it had expanded further upon the scope of the obligation to respect, protect and fulfil the humanity and dignity of children.

Moreover, there is noteworthy problematization in the child rights discourse that this book does not acknowledge. For instance, the conventional approach of such actors as the International Labour Organisation and UNICEF in favour of the elimination of child labour is increasingly questioned due to concerns that this focus that can facilitate harmful measures and ignore children’s perspectives and contexts.¹⁹ The book’s legal framing also seems to hinder at times the exploration of children’s rights, which would benefit from more multidisciplinary discussion. Accordingly, additional references to pertinent academic resources in children’s rights generally and children’s rights and business specifically would have been useful. For example, Dr Amanda Berlan specializes in business and sustainability with several pertinent publications about business and children. Moreover, further discussion about human rights impact assessments that could have been considered.²⁰ As children’s rights continue to be widely underappreciated by the general public and the business world, this is a missed opportunity.

Furthermore, from the onset, consistent with the aforementioned priority of protection and responsibility, the author tends to consistently prioritize violations and harms that business causes to children. While violations are concerning, such categorization streamlines attention to children’s rights in relation to failures. This choice constrains understanding and probably hinders assessment through *inter alia*: an unbalanced understanding of the child rights situation; focusing on specific rights while excluding others; potentially blurring the spectrum of implementation, which may include positive efforts; and distorting issue- or needs-based efforts that may reflect stereotypes or misconceptions of children and their rights.²¹

Given the political dimensions in the argument, greater exploration of the structural issues related to power would have been beneficial. The book outlines the pronounced positions that businesses have in many contexts, and focuses on several countries greatly

¹⁶ C McMellon and EKM Tisdall, ‘Children and Young People’s Participation Rights: Looking Backwards and Moving Forwards’ (2020) 28:1 *The International Journal of Children’s Rights* 157–182, <https://doi.org/10.1163/15718182-02801002> (accessed 6 April 2021).

¹⁷ For example, L Lundy, ‘“Voice” is not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child’ (2007) 33:6 *British Educational Research Journal* 927–942, doi:10.1080/01411920701657033.

¹⁸ Collins, note 2, 601.

¹⁹ For example, see Children and Work Network, Children and Work Network Statement (n.d.), <https://www.childrenandwork.net/statement> (accessed 6 April 2021).

²⁰ For example, N Götzmann (ed.), *Human Rights Impact Assessment*, Research Handbooks on Impact Assessment Series (Cheltenham, UK: Edward Elgar Publishing, 2019).

²¹ TM Collins, ‘The Significance of Different Approaches to Monitoring: A Case Study of Child Rights’ (2008) 12 *International Journal of Human Rights* 159–187, <https://doi.org/10.1080/13642980801899626> (accessed 6 April 2021).

influenced by such international institutions as the World Bank and International Monetary Fund. Three brief references to influential legal scholar Simons about Third World Approaches to International Law highlight the structural bias against rights-holders and developing states for the benefit of corporate and financial powers. However, additional discussion would have been useful, including for instance decolonization, which is increasingly relevant in children's rights,²² and particularly conspicuous given the contexts of the aforementioned country cases.

While there is some attention in the final two chapters to international relations discourse, there is a heavy emphasis upon international law throughout as it is the publication of the author's doctoral thesis in this field. However, for those who are not international law specialists, reading this dense text would probably be difficult, likely restricting its relevance to international legal experts in this emerging area.

In conclusion, despite these limitations, this seminal book highlights the under-appreciated legal and political dimensions of the relationship and the need for additional efforts to further respect of children's rights in practice. As the author outlines:

Neither mainstreamed nor targeted in the frameworks on business and human rights, children's rights are often subsumed within the broader heading of groups that are a higher risk of marginalisation or disadvantage. For these groups, the frameworks on business and human rights foresee a heightened general duty as well as a possible need to introduce additional and differentiated measures.²³

Furthermore, business plays a major societal role as partnerships are highlighted²⁴ in implementing such public objectives as the UN Sustainable Development Goals.²⁵ Children's rights are critical to ensure that they are not ignored in processes and results. This is particularly important as a 12-year-old girl in Bangladesh outlined: 'We will respect those companies who followed proper policies for young workers ... provide proper working guidelines and maintain proper respect to [children]'.²⁶ This impressive book fills a lacuna in the international law discourse by advancing respect by business of children's rights.

Tara M. COLLINS 

School of Child & Youth Care, Ryerson University, Toronto, Canada
and Children's Institute, University of Cape Town, Cape Town, South Africa

²² EA Faulkner and C Nyamutata, 'The Decolonisation of Children's Rights and the Colonial Contours of the Convention on the Rights of the Child' (2020) 28 *International Journal of Children's Rights* 66–88, <https://doi.org/10.1163/15718182-02801009>.

²³ Erdem Türkelli, note 5, 308.

²⁴ United Nations, 'Partnerships for Sustainable Development Goals: A Legacy Review Towards Realizing the 2030 Agenda' Division for Sustainable Development, UN Department of Economic and Social Affairs, December 2015, <https://sustainabledevelopment.un.org/content/documents/2257Partnerships%20for%20SDGs%20-%20a%20review%20web.pdf> (accessed 6 April 2021).

²⁵ United Nations, 'Transforming Our World: The 2030 Agenda for Sustainable Development' UN Doc. A/RES/70/1, 21 October 2015.

²⁶ UNICEF, Global Compact and Save the Children, note 3, 9.