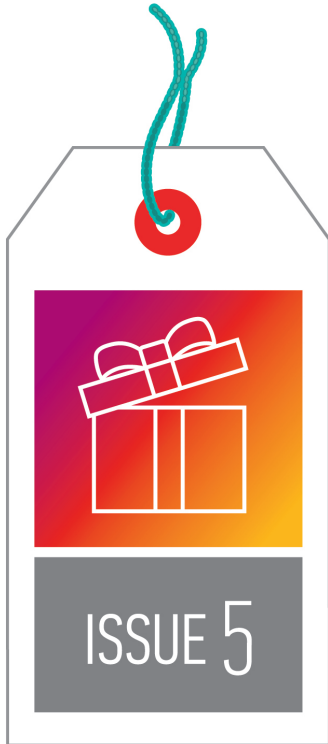


3—It's Time to Make Meaningful New Year's Supply Chain Resolutions



The holiday season is a time for contemplation, reflection, and planning for the

future. Having spent nearly two years in a pandemic, moreover, has no doubt caused many of us to reassess our values and priorities. With the new year approaching, this is an excellent time to turn over that new leaf and commit to starting, or reestablishing, good habits.

Businesses should be no different. Companies that evaluate their activities, examine their operations, and set New Year's resolutions can jump-start 2022. Even better, some New Year's resolutions can further environmental, social, and governance (ESG) goals, generally, and meaningfully affect literally millions of children suffering around the world, specifically.

The International Labour Organization (ILO) and the United Nations Children's Fund (UNICEF) report that the number of children trapped in child labor is on the rise. Every four years since 2000, the ILO has estimated the percentage of children in child labor. For the first time, the percentage over a four-year period (2016-2020) stagnated—meaning the absolute number of child laborers increased. Though arriving at precise numbers is an inherently tricky business, the ILO estimates that, as of early 2020, a staggering 160 million children were conscripted into child labor.

Against the backdrop of this distressing child labor trend, COVID-19 soon followed and created the elements of a tragic, perfect storm: (1) a greater supply of susceptible children; (2) a greater demand for cheap labor; (3) companies (and families) financially stretched; (4) businesses shifting resources from business-enhancing to business-sustaining; and (5) diminished protections against child labor because of reduced enforcement and regulatory oversight, factory visits, etc. What follows is a brief overview of how this quintet of concerning trends has generated a record number of child laborers.

Child Labor Supply

The pandemic disrupted business operations, supply chains, and economies around the globe, deepening the plight of our world's most vulnerable people. Millions of workers lost their jobs due to the pandemic. This rise in unemployment and loss of income pushed many households into poverty—forcing children to become income earners to help make ends meet. As if these facts are not bad enough, global school closures affected approximately a billion students. And sadder yet, many of these children depended on schools for their meals. The result is that more children than ever were conscripted into work, with many trapped in dangerous occupational activities like mining, agriculture, and manufacturing. Common injuries include burns, amputations, fractures, blinding, toxin exposure, and electrocutions. These exposures increase the risk of developing life-long neurologic impairment, lung cancer, and mesothelioma.

Child Labor Demand

COVID-19 has increased demand for cheap labor as companies up and down supply chains face shrinking revenue. Many businesses were compelled to reduce wages to make even a small profit. Unfortunately, corruption creeps in during such desperate times. And like hawks scanning for prey, organized child traffickers, who care little about the health of their "work force" and will make profits whenever and wherever possible, see a golden opportunity in the midst of this misery. Rather than paying fair wages, these wrongdoers "employ" forced and child labor at the lowest possible cost. Shady labor recruiters, likewise, recognizing this economic shift have been more aggressive in enlisting workers. Additionally, these low wages intensify the struggle to escape debt bondage (where a person's services are pledged as security for the repayment of debt), for less revenue makes it more difficult to pay off the debt.

Fewer Protections

With many of the world's supply chains in chaos and government resources stretched, COVID-19 has tragically also reduced mechanisms that would otherwise combat child labor. Government agencies, nongovernmental organizations (NGOs), and private parties have been hobbled in their ability to perform their normal oversight. The pandemic has minimized travel, thus preventing customers, third-party auditors, and government regulators and enforcers charged with ferreting out child labor from inspecting factories and other worksites. In addition, many organizations established to protect and support survivors of human trafficking (including forced and child labor) have seen their funding diminished during the pandemic.

Hope and Resolutions

At the risk of bringing some negativity into the festive season, knowledgeable observers agree that the current picture of child labor around the world looks bleak. This holiday season, however, can also offer the promise of hope and a more humane and empathetic future.

As we are starting to see a (faint) glimmer of light at the end of the pandemic tunnel, we also are moving ever closer to a period of judgment. Consumers and enforcers alike will soon be evaluating the conduct of companies during the period when fewer were watching.

In short, the time is right to get compliance houses in order. Companies can make New Year's resolutions to resume the fight against child labor inside and outside their supply chains. Consumers, and particularly the ever-expanding subgroup of socially-conscious consumers, will expect nothing less.

Here are eight resolutions businesses can make to help bring joy to children who are at risk:

1. **Engage in Robust Messaging.** Company leaders, including top management, should emphasize the importance of the company's opposition to all forms of child labor. The holiday season is an easy time for these leaders to speak out and influence the entire organization as well as stakeholders and business partners. Follow-through is important, however, and, unlike those diets and exercise programs people forget by February, these leaders should continue to champion their company policies throughout 2022.
2. **Dust Off and Update the Company's Code of Conduct.** Companies should create, revisit, or revise their code of conduct (the guidelines for employees and management to clarify and make decisions that are consistent with the company's mission statement, core values, and policies), policies (the specific rules that support the guidelines), and procedures (the acts or means to comply with a company's policies). Companies should also ensure that these documents specifically and practically address child labor and other human rights concerns. For example, if a company is required to publicize, but does not have in place, the required California Transparency in Supply Chains Act or UK Modern Slavery Act disclosures, it should retain experienced counsel to help them do so.
3. **Honestly Evaluate the Company's Risk Profile.** Companies should rigorously verify their supply chains to evaluate risks of child labor and human rights violations. They should implement practical, focused measures to eliminate any risks that may exist. Obviously, this is not a one-time act but an activity that should continue throughout the year.
4. **Make Sure That Suppliers Understand the Company's Expectations.** Companies should partner with suppliers and their suppliers' employees to ensure that suppliers are complying with the company's requirements concerning child labor and human trafficking. Supply agreements should require compliance with relevant laws and regulations as well as incorporating the company's code of conduct and audit rights.
5. **Trust, but Verify Through Targeted Audits.** Companies should commit to a practical, risk-based supplier auditing program whereby they evaluate supplier compliance with company standards regarding child labor and other important concerns. Social audits should be tailored to address the topics that the company prioritizes. The auditing program should first focus on those suppliers who pose the most risk to the company.
6. **Train to Ensure Understanding.** Companies should train company employees and leadership responsible for supply chain management on child labor and human trafficking. They should focus on identifying and mitigating risks within their supply chains. Note that many nonprofit organizations, vendors, and even attorneys offer such training and can provide industry-specific presentations. Companies should emphasize the importance of identifying such issues and reporting to management and law enforcement.
7. **Ensure Confidential Reporting Options.** Companies should establish a toll-free hotline where employees, suppliers, and other stakeholders can confidentially report prohibited child labor and other violations of the company's policies. Companies should publish the hotline with assurances that supplier employees need not fear retaliation.
8. **For "Extra Credit," Publish What the Company Is Doing (Without Over or Understating).** If the company's compliance program has achieved the appropriate level of maturity, it may commit to publishing (or be required to publish) a robust annual report summarizing all their company's ESG efforts—including those addressing child labor—with objective measurements of achievements and successes. As in all company pronouncements, special care must be taken to ensure that the report is accurate and aspirational rather than overconfident and promising "absolutes."

The ILO reports of child labor are distressing, and the pandemic has worsened the situation. During this holiday season, however, we can have hope for a better world. Join us in making New Year's resolutions to finally bring at least some modicum of joy to the millions of children who may have never known it.

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