

# THE PLIGHT OF THE STREET CHILDREN OF LATIN AMERICA WHO ARE ADDICTED TO SNIFFING GLUE, AND THE ROLE AND RESPONSIBILITIES OF TRANSNATIONAL CORPORATIONS

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## I. INTRODUCTION

A great concern for the international community is protecting the rights of children around the world.<sup>1</sup> Currently, there are approximately 100 million abandoned street children in the world.<sup>2</sup> In Latin American countries there are approximately forty million street children<sup>3</sup>; and there is an estimation that this number will continue to increase, as poverty becomes more widespread in the urban areas of these countries.<sup>4</sup> The street children in Latin American countries like Brazil, Guatemala, Honduras, and Columbia learn daily how to survive on the rough streets of

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1. Barbara A. Frey, *The Legal and Ethical Responsibilities of Transnational Corporations in the Protection of International Human Rights*, 6 MINN. J. GLOBAL TRADE. 153-55 (1997) (discussing the struggle to protect fundamental human rights around the world).

2. Marc D. Seitles, *Effect of the Convention on the Rights of the Child upon Street Children in Latin America: A Study of Brazil, Colombia, and Guatemala*, 16 IN PUB. INTEREST 159-60 (1998) (examining the many problems associated with street children in Latin America, and discussing international and local governmental responses to this growing social reality).

3. *Id.*

4. *Id.*

the cities.<sup>5</sup> Their lives often involve sleeping on the cold hard cement, begging for food, stealing from the locals and tourists, selling their bodies for sex, and sniffing glue in order to escape reality.<sup>6</sup> Many of these children end up on the city streets of these Latin American countries because they have made a choice to fend for themselves in the harsh environment of the streets, as opposed to fight to survive in families torn apart by poverty, alcoholism and abuse.<sup>7</sup>

Thus, part one of this comment will give a general overview of the street children in Latin America; examine some of the problems these street children face on a daily basis; and discuss the children's addiction to sniffing glue. Part two will give a general overview of the involvement of H.B. Fuller Co., an American corporation that has manufactured the glue in its own Central American plants.<sup>8</sup> Part three will trace the history of international children's rights organizations, and will discuss the primary weaknesses of the Convention on the Rights of the Child;<sup>9</sup> a body that was established to protect the basic rights of the children.<sup>10</sup> Part four will discuss policies, standards, and regulations established to propose human rights guidelines for transnational corporations to follow.<sup>11</sup> Finally, this comment will conclude by offering suggestions on how transnational corporations can create new policies to address children rights violations in the countries where they operate.

## II. THE *RESISTOLEROS* AND THE PROBLEMS THEY FACE ON THE STREETS

Children of the streets<sup>12</sup> are children in Latin America who work and live on the streets.<sup>13</sup> These children have minimal ties to their families, and in most cases no ties at all.<sup>14</sup> The street children are often called

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5. *Id.*

6. Craig Kielburger, *The Crusade of Free the Children*, 21 WHITTIER L. REV. 163-72 (1999).

7. *Id.*

8. Paul Jeffrey, *Glue Maker's Image Won't Stick*, MULTINATIONAL MONITOR, Dec. 1995, available at [http://www.pangaea.org/street\\_children/latin/fuller.htm](http://www.pangaea.org/street_children/latin/fuller.htm).

9. Kielburger, *supra* note 6, at 165.

10. *Id.*

11. Frey, *supra* note 1, at 153.

12. Seitles, *supra* note 2, at 161.

13. *Id.*

14. *Id.*

*Resistoleros*,<sup>15</sup> because of their addiction to the glue Resistol that is manufactured in Central America by H.B. Fuller Co.<sup>16</sup> Because these children are virtually on their own, they have to fend for themselves. The age of the children varies from ten to seventeen years old.<sup>17</sup> When the children are younger, they use their innocent appearance to their advantage; thus, the locals and tourists succumb to their begging.<sup>18</sup> However, as the children get older it becomes more difficult to gain sympathy from the locals and tourist; therefore, begging is no longer an option.<sup>19</sup> Consequently, the children then turn to stealing things like wallets, sunglasses and jewelry that they sell to local shop owners in return for food, a place to sleep or glue to inhale.<sup>20</sup>

The most common reason the children turn to the streets for a home is poverty.<sup>21</sup> The children are usually born into families that are dysfunctional in many ways.<sup>22</sup> For example, the parents are usually unmarried; they have multiple children and often times abuse alcohol.<sup>23</sup> Indeed, the problems the parents in Latin America face are typical of the third world countries; there is a vast disparity between the rich and the poor.<sup>24</sup> Therefore, a small percentage of the population is extremely rich, and the vast majority of the population is exceedingly poor.<sup>25</sup> Because these countries are under-developed, there are few economic and educational opportunities.<sup>26</sup> Thus, the parents themselves are also victims of a vicious economic system, and as a result the children also end up paying a steep price. Consequently, the children turn to the streets because they do not have any other options.<sup>27</sup>

Life on the streets is tantamount to dodging bullets from an automatic rifle. These young children face threats of physical and sexual abuse,

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15. Leyla Kokmen, *Coming Unglued*, CITY BEAT, Feb. 9, 2000, available at <http://www.citypages.com/databank/21/1001/article8414.asp>.

16. *Id.*

17. Seitles, *supra* note 2, at 162.

18. Tamara Rice Lave, *Breaking the Cycle of Despair: Street Children in Guatemala City*, 27 COLUM. HUM. RTS. L. REV., 57-77 (1995) (describing the life of the street children).

19. *Id.*

20. *Id.*

21. Seitles, *supra* note 2, at 161-66.

22. *Id.*

23. *Id.*

24. Rice Lave, *supra* note 18, at 68.

25. *Id.*

26. Seitles, *supra* note 2, at 161.

27. *Id.*

murder, disease, malnutrition, and prostitution.<sup>28</sup> First, the children suffer from several health problems because there is no basic health care for them.<sup>29</sup> Some examples of the health problems the children experience are respiratory, gastro-intestinal, and dental problems.<sup>30</sup> Additionally, since the children do not have regular meals, they suffer from chronic malnutrition that is quite evident in their appearance.<sup>31</sup> Their height and weight are below average for children of the same age; and they are usually sexually underdeveloped.<sup>32</sup> Second, the children are highly susceptible to diseases because of their health, and because sometimes they are victims of sexual abuse.<sup>33</sup>

Third, civilians and law enforcement officials frequently mistreat the children.<sup>34</sup> The presence of the children on the streets is a menace to the society in general.<sup>35</sup> They view the children as a disturbance to the public: they repel the children because of their appearance, and shun them because they are potential thieves.<sup>36</sup> For example, they yell or threaten the children, stare at them, and refuse to service them in restaurants and food stalls.<sup>37</sup> However, the children suffer the greatest threat from the law enforcement officials.<sup>38</sup> For example, they are brutally beaten; assaulted sexually without protection; forced into prostitution; and murdered at the hands of those that are sworn to uphold the law and protect the public as a whole.<sup>39</sup>

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28. *Id.*

29. Rice Lave, *supra* note 18, at 60.

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.* at 61 ("Sexually-transmitted diseases (STDs) also pose a serious health problem. A 1991 study of 143 Guatemalan street children conducted by the Center of Orientation, Diagnosis, and Treatment of Sexually Transmitted Diseases and Casa Alianza found that 93% of those studied admitted to having STDs. Of these, 78.3% admitted to having genital herpes, 46.64% gonorrhoea, 27.3% papillomatosis, 13.29% vaginal trichomoniasis, 11.7% chancroids, and 69.9% scabies.").

34. Rice Lave, *supra* note 18, at 66-8.

35. *Id.*

36. *Id.*

37. Rice Lave, *supra* note 18, at 66-67.

38. Seittles, *supra* note 2, at 162-64.

39. *Id.* at 163 ("The government supported policy of 'social cleansing' is often carried out in Columbia by military officials and police officers who eliminate groups identified as worthless or dangerous to society, including, but not limited to, street children. In Brazil, police death squads, typically consisting of current, off-duty or former policemen, have systematically killed street children without cause or justification.").

Last, drug abuse is a serious problem for the street children; many are dependent on glue, paint thinner or other types of drugs.<sup>40</sup> Yet, the majority of the children inhale shoe glue.<sup>41</sup> The glues that they sniff are solvent-based adhesives that contain toxins, like toluene and cyclohexane that can be fatal to the human body.<sup>42</sup> The children turn to sniffing glue to suppress feelings of hunger, stress, anxiety, isolation, rejection, cold, and pain that comes from living on the streets.<sup>43</sup> They also become addicted to the feeling of euphoria that the glue provides.<sup>44</sup> Although purchasing the glue is legal, inhaling it as a drug over long periods can eventually damage the brain, and the central nervous system.<sup>45</sup> The short-term effects caused by sniffing the glue are lightheadedness, nausea, and loss of appetite.<sup>46</sup> Frequently, the children turn to the glue because it is easily accessible and it is quite inexpensive.<sup>47</sup> Although the drugs comfort the children and give them courage, once they start using abusing them, it is very difficult to stop.<sup>48</sup>

### III. THE INVOLVEMENT OF H.B. FULLER CO., AN AMERICAN CORPORATION

H.B. Fuller Co., a Minnesota-based company with manufacturing plants in Central America was one of the main companies to sell shoemaker's glue containing toluene in Latin America.<sup>49</sup> H.B. Fuller Co., decided to stop selling solvent-based footwear adhesives in Latin America in November of 1999 amidst controversy after human rights group campaigned against them and continually attacked them in the media.<sup>50</sup> However, H.B. Fuller had long insisted that its company was not responsible for product abuse, because it designed their glue for shoes, and sold it to legitimate manufacturers.<sup>51</sup> Thus, H.B. Fuller's decision to pull

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40. *Id.*

41. Rice Lave, *supra* note 18, at 64-66.

42. Kokmen, *supra* note 15.

43. *Id.*

44. *Id.*

45. *Id.*

46. Rice Lave, *supra* note 18, at 64-66.

47. *Id.*

48. Paul Jeffrey, *Firm Resists Tighter Control on Toxic Glue*, NATIONAL CATHOLIC REPORTER, Mar. 31, 1995, available at [http://www.pangaea.org/street\\_children/latin/ncr.htm](http://www.pangaea.org/street_children/latin/ncr.htm).

49. *Id.*

50. Kokmen, *supra* note 15.

51. *Id.*

out of the Latin American market has come after years of strife and fights by advocacy groups for the street children.<sup>52</sup>

In the 1980s, activists in Central America demanded the addition of oil of mustard to toluene-based glues to deter first-time users from trying the glue and to discourage regular users.<sup>53</sup> The activists wanted the manufacturers to follow the lead of another U.S.-based company, Testor Corporation, that added mustard oil to model airplane glue in 1968.<sup>54</sup> After the addition of mustard oil, the glue was difficult to inhale; consequently, the abuse rate declined.<sup>55</sup> Although the cost of this process was negligible, there was a reduction in sales for Testor Corporation.<sup>56</sup>

Following this example would have required the glue manufacturers to address the abuse problem during the manufacturing stage of the product. The activists viewed this as a very practical approach and insisted on this implementation; however, H.B. Fuller and other manufacturers refused to comply.<sup>57</sup> In the wake of the controversy, the Honduran Congress passed a law that required the addition of mustard oil to toluene-based products.<sup>58</sup> H.B. Fuller retaliated by inundating shoemakers with claims that mustard oil would be dangerous for their health; and started to lobby incessantly against the new law.<sup>59</sup> Therefore, after H.B. Fuller's attacks, the Honduran Congress succumbed, and recommended that toluene products need not contain any mustard oil at all.<sup>60</sup>

Subsequently, the situation in Honduras became a hot subject with children's activists in the United States. The United States activists began campaigning strategically in order to compel H.B. Fuller to switch to less-toxic, water-based glues or add mustard oil to the formula.<sup>61</sup> In 1992, after learning that NBC "Dateline" would begin filming an investigation into H.B. Fuller's role in the abuse of the glue, H.B. Fuller vowed to stop

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52. *Id.*

53. Jeffrey, *supra* note 8.

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. Jeffrey, *supra* note 8, at [http://www.pangaea.org/street\\_children/latin/fuller.htm](http://www.pangaea.org/street_children/latin/fuller.htm). ("While observing street kids snatch watches and handbags on the streets of Tegucigalpa, Hector Palacios, a street educator for Casa Alianza, the Latin American program of New-York-based Covenant House, told NCR, "Look at their eyes or smell their clothes. It's glue that gives them the bravery to do that.").

59. *Id.*

60. *Id.*

61. *Id.*

producing solvents in known areas where abuse was rampant.<sup>62</sup> Unfortunately, after the media attention had moved on, H.B. Fuller continued to sell toluene-based glue in the region.<sup>63</sup> Although it removed the smaller containers of glue from store shelves in Honduras and Guatemala, industrial sales and other retail distribution continued.<sup>64</sup>

In 1993, activists in Central America still insisted that H.B. Fuller had not kept its promises because the street children still had access to toluene-based glue.<sup>65</sup> H.B. Fuller disagreed because it added warning labels to retail cans in Nicaragua, that advised against selling the product to minors.<sup>66</sup> However, the store clerks seemed to ignore the labels, and still sold it to the children.<sup>67</sup> Furthermore, H.B. Fuller insisted that it had spent a great deal of time researching how to make solvent-based glues harder for children to acquire, and more repugnant to smell.<sup>68</sup> H.B. Fuller disagreed with the addition of mustard oil because they claimed it was a dangerous carcinogen.<sup>69</sup> Moreover, it had developed water-based alternatives to the solvents, but conceded that the shoemakers would not be able to afford the necessary technology in order to incorporate the new process.<sup>70</sup>

In March of 1994, H.B. Fuller introduced a new glue formula in Costa Rican newspaper advertisements that claimed it would substitute cyclohexane for toluene, and began introducing the new formula in Latin America.<sup>71</sup> H.B. Fuller asserted that this new formula would resolve the abuse problem because it had a repugnant smell, so it would not be as sweet smelling as toluene.<sup>72</sup> However, cyclohexane is also a hazardous toxin, so H.B. Fuller's claim that the new formula was less dangerous was rather misleading.<sup>73</sup>

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62. *Id.*

63. Jeffrey, *supra* note 48.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. Kokmen, *supra* note 15.

69. Jeffrey, *supra* note 48.

70. Kokmen, *supra* note 15.

71. *Id.*

72. *Id.*

73. Jeffrey, *supra* note 48 ("The suggestion that cyclohexane is less dangerous is misleading. A hydrocarbon solvent like toluene, cyclohexane also makes the EPA's Superfund list of hazardous toxins. "The difference between toluene and cyclohexane is like the difference between a .44 magnum and a .357 magnum . . .").

In 1995, Julia Polanco a Guatemalan citizen filed a wrongful death lawsuit against H.B. Fuller in a United States District Court in Dallas, Texas.<sup>74</sup> The suit alleged that H.B. Fuller contributed to the death of Julia Polanco's son, Joel Linares, who died of kidney failure in 1993 in Guatemala.<sup>75</sup> Polanco plead that H.B. Fuller contributed to her son's death by designing, manufacturing, and marketing a product that they knew children abused; yet they continued to sell it without taking any precautionary steps to ensure that the children would not be able to access the product.<sup>76</sup> Thereafter, Polanco's attorney filed a subsequent suit in Minnesota, and then withdrew the Texas lawsuit once they stopped the statute of limitations from running.<sup>77</sup> In *Polanco v. H.B. Fuller*,<sup>78</sup> the Minnesota federal court dismissed the suit on two grounds: lack of diversity, and forum non conveniens.<sup>79</sup> First, concerning lack of diversity, the court stated that H.B. Fuller was not a monolithic entity because there were three distinct companies, Fuller-U.S., Kativo, a Panamanian company, and Fuller-Guatemala.<sup>80</sup> Because the physical manufacturing of the glue was by Fuller-Guatemala, an indispensable party that Fuller-U.S. sought to join, Guatemalan citizens would be on both sides of the case, and therefore diversity was destroyed.<sup>81</sup>

Second, concerning forum non conveniens, the court reasoned that even if the jurisdictional problems were resolved, all the necessary evidence would be in Guatemala so it would be more appropriate to try the case in Guatemala.<sup>82</sup> Thus, Polanco had no other choice but to try the case in Guatemala. However, Guatemala has a one-year statute of limitations for filing cases; Polanco's son had died three years before the filing of the Minnesota lawsuit.<sup>83</sup>

On November 30, 1999, H.B. Fuller finally decided to stop selling the solvent-based glue in Latin America.<sup>84</sup> It decided to concentrate on

74. Jeffrey, *supra* note 8.

75. *Id.*

76. *Id.*

77. *Id.*

78. *Polanco v. H.B. Fuller Co.* 941 F. Supp. 1512 (D. Minn. 1996).

79. *Id.* at 1514-15.

80. *Id.* ("Fuller-U.S. owns 95% of Kativo, a Panamanian corporation. Kativo, directly, and through its own subsidiary, in turn owns all the stock of Fuller-Guatemala, a Guatemalan corporation.")

81. *Id.* at 1515.

82. *Id.*

83. *Polanco*, 941 F. Supp. at 1515.

84. Kokmen, *supra* note 15.



researching, and developing water-based glue as opposed to solvent-based glue because they can offset the cost of the new technology to larger industrial customers.<sup>85</sup>

#### IV. THE CHILDREN'S RIGHTS

The first children's rights movement began in early 1920s.<sup>86</sup> The movement was an indirect response to the industrialization period, and a world war that exposed children to various atrocities.<sup>87</sup> In 1959, the United Nations General Assembly passed the Declaration of Rights of the Child to govern the rights of children after the Second World War when children suffered inhumane deaths.<sup>88</sup> However, this was not a binding instrument on the nations; it urged the nations to comply with the Declaration in hopes of protecting the children.<sup>89</sup> In 1979, Poland proposed a treaty that would be binding on the member countries of the United Nations in order to protect children in these countries.<sup>90</sup> This was the opportune moment for a treaty that sought to incorporate all the established principles of the previous Declaration; and include other human rights treaties because the world recognized 1979 as the International Year of the Child.<sup>91</sup> Thereafter, in 1989 a sector of the United Nations completed the Convention on the Rights of the Child.<sup>92</sup> The Convention had taken ten years to draft, and it addressed the concerns, problems and issues that involved children throughout the world.<sup>93</sup>

Thus, by the end of 1996, 176 countries had accepted the Convention on the Rights of the Child, and agreed to be bound by its principles.<sup>94</sup> This was a milestone for children's rights because it demonstrated that the United Nations had finally agreed to institutionalize the concept of children's rights in an international forum.<sup>95</sup> Moreover, the Convention brought together leaders from all over the world to incorporate the full

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85. *Id.*

86. Seitles, *supra* note 2, at 165.

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. Seitles, *supra* note 2, at 165.

92. *Id.* at 165-66.

93. *Id.*

94. *Id.* at 166.

95. *Id.*

range of human rights for children: civil, political, economical and cultural rights.<sup>96</sup>

The Convention on the Rights of the Child formulates three basic principles that include fundamental rights that are necessary to protect children around the world.<sup>97</sup> First, all children should enjoy their rights without discrimination, prejudice, or exceptions of any kind.<sup>98</sup> Second, the best interest of the child must be considered in all actions concerning children, regardless of whether it involves public or private actions.<sup>99</sup> Third, children should have the opportunity to formulate ideas and express their own opinions, and the public should acknowledge these opinions.<sup>100</sup> Additionally, the Convention also includes substantive articles<sup>101</sup> that recognize civil rights, a right to life, freedom for children, and offers special protection to certain groups of children such as refugees, orphans and disabled children.<sup>102</sup>

There is no definitive enforcement mechanism for making sure that the provisions of the Convention on the Rights of the Child are incorporated. There is a presumption that the ratifying nations will incorporate the provisions into the respective nations' laws; however, the aim of the Convention is to assist the nations that have not ratified the document to interpret the Convention's laws.<sup>103</sup> Consequently, the Convention instituted a permanent international forum to address important issues, and discuss potential methods of resolution.<sup>104</sup> The forum includes an elected Committee on the Rights of the Child. The elected Committee reviews progress reports from nations that have ratified the document to ensure they comply with the Convention.<sup>105</sup> The Committee can request

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96. Kielburger, *supra* note 6, at 166.

97. Seitles, *supra* note 2, at 167.

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.* ("The substantive articles of the Convention recognize civil rights and freedoms for children, such as the right to a name, a nationality, freedom of expression, privacy and a right to life. Developmental rights include assurances of an adequate standard of living, access to health services, right to education, standards of parental responsibility, State assistance for children deprived of a family environment, and the right to be free from all forms of abuse and neglect. Protective rights in the Convention guard children against economic and sexual exploitation, cruel tortuous treatment, arbitrary separation from their families, and abuses in the criminal justice system.")

102. Seitles, *supra* note 2, at 168.

103. *Id.*

104. *Id.*

105. *Id.* at 168-73.

additional documentation from the reporting nations; and will prepare and submit a report of its own findings.<sup>106</sup>

The Convention on the Rights of the Child has made promises to children that it has a difficult task of keeping. A basic principle of the Convention states that children are entitled to enjoy their rights without discrimination or distinction.<sup>107</sup> However, there is no enforcement mechanism to guarantee this basic principle.<sup>108</sup> Therefore, on the surface, this Convention seems to be a panacea but in reality, it lacks any substance. First, the Convention has an elected committee that reviews progress reports from ratifying nations, but the nations are not obligated to submit this report.<sup>109</sup> Thus, nations like Brazil, Guatemala, Colombia, and Honduras where children live on the streets and endure abuse everyday may decline to submit this report. However, the Convention does not address this because there is an assumption that each ratifying nation will comply. If the country does supply the report, there is no official checkpoint to verify that it is accurate; therefore, there is the possibility that countries may misrepresent its problems or exaggerate its successes.<sup>110</sup>

Second, although the Committee reviews and can request additional documents from the countries, there are no enforcement mechanisms at the international level to ensure the rights guaranteed by the Convention.<sup>111</sup> Simply stated, the Convention does not have the power to guarantee that children on the streets in Latin America will be able to enjoy a basic right that it purports to guarantee.

Third, the Committee is not authorized to accept any petitions that allege violations of the Convention from the States Parties or individuals that may seek to file a grievance.<sup>112</sup> In other words, there is no true dispute resolution at the international level for parties that may have a conflict about the rights of the Convention. Simply stated, street children who are brutally beaten, murdered or forced into prostitution at the hands of law enforcement officials while the government looks the other way cannot file a petition with the Committee. Furthermore, street children cannot petition to have corporations conduct their transactions so that the corporations will comply with the Convention's principles. Indeed, there seems to be no protection for the street children under the Convention.

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106. *Id.*

107. Seitles, *supra* note 2, at 168-73.

108. *Id.* at 172-73.

109. *Id.*

110. *Id.*

111. *Id.*

112. Seitles, *supra* note 2 at 172-73.

Fourth, poorer nations like the countries in Latin America may not need to comply with the Convention because of their economic conditions.<sup>113</sup> Therefore, a country's resources could dictate the appropriate measures that it should undertake.<sup>114</sup> Consequently, "it may result in an unfortunate escape clause for the same countries where implementation is most necessary."<sup>115</sup> Certainly this is an anomaly; the countries where children tend to experience the most suffering are usually the countries that have the fewest resources, and are struggling economically. This is the classic case of the street children that barely exist in Latin America. As previously stated, poverty is a mitigating factor that drives these children to the streets.

Fifth, the Convention ensures the right to life of each child.<sup>116</sup> Therefore, it is the responsibility of each country to see to the welfare of its children.<sup>117</sup> The welfare of the child should encompass the necessities for survival. Thus, each child should have a home, food and clothing.<sup>118</sup> The street children do not have access to these basic necessities, and they are left to fend for themselves while struggling to ward off evil forces that threaten their lives; although, the Convention ensures that the ratifying countries will take steps to prolong the life of its children.<sup>119</sup> In order to prolong the life of the children, the street children should have a fair chance at survival. However, survival for the street children requires that they are safe from harm, and that society meets their basic needs on a daily basis. On the contrary, Columbia's policy of "social cleansing" has caused the death of one street child every four hours.<sup>120</sup> In addition, in Guatemala, National Police Officers and other government security force members were incriminated in many assaults against street children that resulted in fourteen murders over a period of eighteen months.<sup>121</sup> Consequently, Guatemala has been under international scrutiny, but it has been difficult to prove that the government allowed this to transpire

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113. *Id.*

114. *Id.* at 172-74.

115. *Id.*

116. *Id.* at 174-78.

117. Seitles, *supra* note 2, at 174-78.

118. *Id.* ("Assuring an adequate standard of living for all children is particularly relevant for street children. Article 27 of the Convention on the Rights of the Child addresses this issues and obliges States Parties to ensure that children are provided with food, clothing, and housing according to the financial resources available and the norms of the particular culture.")

119. *Id.*

120. *Id.* at 176-78.

121. *Id.*

although there is evidence that the local authorities approved of the killings.<sup>122</sup>

Sixth, the Convention on the Rights of the Child also contains a specific reference to the illegal use of narcotic drugs, and psychotropic substances because drug abuse is prevalent amongst children.<sup>123</sup> Once again, the countries in Latin America have failed the children when it comes to drug abuse. The countries had done very little to stop the sale of the glue until the lawsuit against H.B. Fuller was filed.<sup>124</sup> Furthermore, the Convention requires that children have access to rehabilitation and a chance to reintegrate into society, yet there are no governmental programs in Latin America for children that have serious addiction problems.<sup>125</sup> In fact, Casa Alianza, an independent, non-profit organization, is the only entity that offers a drug rehabilitation program to children with extreme addiction problems in Guatemala, Honduras, Mexico and Nicaragua.<sup>126</sup>

Thus, the Convention on the Rights of the Child guarantees that these street children have some fundamental rights, but there is no real enforcement mechanism to ensure that the member countries will comply with the articles of the Convention. Therefore, there is no real protection for these street children under a treaty that was established for their benefit.

## V. THE LEGAL AND ETHICAL RESPONSIBILITIES OF TRANSNATIONAL CORPORATIONS

The United Nations has been the primary entity in promoting and protecting human rights at the international level.<sup>127</sup> Throughout history, corporations have rarely gotten involved in the protection of human rights issues.<sup>128</sup> However, the transnational corporations are being scrutinized for possible violation of human rights issues, and some of these corporations have created their own policies in direct response to human rights violations that occur in the countries where they do business.<sup>129</sup>

Originally, international bodies like the United Nations have enacted schemes for regulating the activities of transnational corporations in the

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122. Seitles, *supra* note 2, at 176-78.

123. *Id.* at 180-84.

124. *Id.*

125. *Id.*

126. Lave, *supra* note 18, at 102.

127. Frey, *supra* note 1, at 154-60.

128. *Id.*

129. *Id.*

countries where they conduct business. Initially, the goal was solely to regulate economic issues and business practices.<sup>130</sup> In 1974, the United Nations called for a code of conduct for transnational corporations that would prevent them from exploiting the countries where they operate and established a Commission with members from forty-eight states in order to formulate a code of conduct for transnational corporations.<sup>131</sup> The formulation of the code started in 1977, continued through 1990, and required transnational corporations to respect the social and cultural objectives, human rights principles, and the values and traditions of the people in the countries where they do business.<sup>132</sup> Also, transnational corporations should not discriminate on the basis of race, color, sex, religion, language, social, national and ethnic origin or political or other opinion.<sup>133</sup>

Individual countries have also taken steps to regulate transnational corporations. For example, the United States has also regulated the activities of transnational corporations.<sup>134</sup> In 1930, the United States forbade the importation of any goods that were produced by convict labor.<sup>135</sup> In the 1970s, the United States also instituted policies that addressed economic issues regarding international commerce.<sup>136</sup> However, none of the policies was instituted specifically for protecting human rights issues; but the United States has used economic sanctions as a tool to punish governments when they violated human rights policies.<sup>137</sup> The legislative body of the United States enacted the Apartheid Act in 1986 that prevented American companies from doing business in South Africa because of the South African government policies; in 1995, the Burma Freedom and Democracy Act forbid investments that supported the

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130. *Id.* ("Many of the early U.N. actions to formulate policies for TNCs focused on regulating restrictive business practices. The newly independent states in the U.N. formed the Group of 77 (G-77). With support of the then-socialist East Bloc states, the G-77 worked within the United Nations to control the ability of TNCs to threaten the sovereignty of host states through the evasion of national regulation and taxation, the distortion of market conditions, or the introduction of alien cultural values.")

131. *Id.* ("Capital-exporting states intended to use the code as a means of protecting the TNCs against discriminatory treatment; capital-importing countries wanted to use it as a means of subjecting the activities of TNCs to greater regulation.")

132. Frey, *supra* note 1, at 166-68.

133. *Id.*

134. *Id.* at 168-71.

135. *Id.*

136. *Id.*

137. Frey, *supra* note 1, at 169. ("Despite its willingness to regulate business activities in foreign countries, the U.S. government has made relatively few successful legislative and executive efforts to specifically regulate TNCs on human rights issues.")

Burmese military government.<sup>138</sup> Additionally, in 1989 the United States Senate also formulated a code of conduct for American corporations that did business in the Soviet Union; and then in 1991 a voluntary code of conduct was also designed for American companies doing business in China.<sup>139</sup> Then, a United States senator introduced the Child Labor Deterrence Act that would prohibit the importation of any goods that were produced by children under the age of fifteen.<sup>140</sup>

Private groups have also taken the initiative to propose standards for corporations that do business in countries with human rights violations.<sup>141</sup> Two well-known principles are the Sullivan Principles<sup>142</sup> and the MacBride Principles;<sup>143</sup> these established principles play a significant role in promoting human rights.<sup>144</sup> The private groups monitor corporations that conduct business in countries that have serious human rights violations.<sup>145</sup>

Last, some major companies that identify themselves as transnational corporations have voluntarily executed internal policies and procedures that specifically deal with human rights in the countries where they conduct business.<sup>146</sup> These internal policies and procedures encompass vendor standards,<sup>147</sup> standards for supporting civil and political rights<sup>148</sup> and

138. *Id.* at 169. ("The bill mandates that the U.S. Government withhold support for loans to Burma from international financial institutions, prevent direct assistance to SLORC (State Law and Order Restoration Council) and exclude the members of SLORC from the United States.")

139. *Id.*

140. *Id.*

141. *Id.* at 174-77.

142. Frey, *supra* note 1, at 174-77. ("Sullivan's code of conduct included six principles which placed businesses in the position of direct advocates of non-discrimination in the workplace and the community during the period of apartheid in South Africa. During its height of effectiveness, the Sullivan code had more than 125 companies as signatories, including giants such as Exxon, Mobil, IBM, Citicorp and Merck. The Sullivan Principles required not only non-discrimination in the workplace, but community investments to increase opportunities for oppressed racial groups.")

143. *Id.* ("[A] U.S.-based group of advocates drafted its own code of conduct to encourage TNCs to combat the legacy of discrimination and strife in Northern Ireland....In addition to promoting hiring, training, and advancement on a non-sectarian basis, the principles call for a ban on 'provocative, sectarian, or political emblems from the workplace,' and adequate security to protect employees from sectarian violence.")

144. *Id.* at 174.

145. *Id.*

146. *Id.* at 177-80.

147. Frey, *supra* note 1, at 177-80. ("Several companies have enacted minimum standards regarding conditions of employment for their workers and those of their business partners. The common features of these standards include a prohibition on forced, convict or child labor.")

148. *Id.* ("Some companies go beyond labor issues to expressly commit themselves to protecting political rights, including freedom of association, freedom from compulsory political

standards for investments.<sup>149</sup> Being recognized as a transnational corporation can be very advantageous for companies on an international basis because it shows their commitment to human rights concerns.<sup>150</sup> Moreover, these transnational corporations believe economic advantage can be used as a sword to persuade countries with human rights violations to conform to the correct standards.<sup>151</sup>

All of the above bodies have created policies, rules, regulations or guidelines for transnational corporations to comply with, however children rights violations still continue in places like Latin America. The codes of conduct do give some guidelines for corporations to follow, but they are not binding on them.<sup>152</sup> Whether a corporation responds to the human rights violations depends on many factors.<sup>153</sup> For example, a company's benevolence may decide if it continues to do business in a place where there is egregious violations.<sup>154</sup> Additionally, if the corporation's philosophy includes strong moral and ethical practices, and the corporation has made this a part of its business culture, then that corporation may take proactive steps to prevent violations.<sup>155</sup> Nevertheless, a corporation may not choose to respond because it is driven by financial aspirations and that may overshadow any ethical norms.<sup>156</sup> Consequently, the code of conduct for transnational corporations maybe a starting point in the right direction, and can be improved to benefit children who continue to suffer in places like Latin America.

## VI. CONCLUSION

The plight of the street children of Latin America is an example of a problem compounded by a corporation continuing to sell an addictive product even though it realized the children were addicted to that particular product. However, companies are morally and ethically responsible to respond to human rights violations especially when the company itself may be a contributing factor to a part of the problem. Therefore, as a whole,

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indoctrination, and freedom from labor as a punishment for holding or for peacefully expressing political views.”)

149. *Id.* (“A few companies have publicly stated bottom line principles guiding decisions about whether or not to do business in a country with significant human rights problems.”)

150. *Id.*

151. *Id.*

152. Frey, *supra* note 1, at 180-82.

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.* at 180.



transnational corporations must act to prevent or to correct violations that occur in this manner.

First, transnational corporations must abide by the same code of ethics in foreign nations, as they would abide by at home. Since the world is a global marketplace, these corporations must do more than just reap the economic benefits of doing business internationally. They must also bear the burden of ensuring fundamental human rights, especially ones concerning children who can not fend for themselves. On a whole, these corporations must take into account the interest of all the parties who may be affected by their actions. This is a logical approach because people pay attention to the way these corporate entities conduct themselves. Furthermore, these corporations may have to face negative repercussions if they are perceived negatively. They could face being boycotted on the home front, and the devaluation of their stocks.

Second, transnational corporations should not passively allow children's rights violations. Whenever one of these corporations are violating a policy or contributing to the violation in any manner, the other corporations should band together to put pressure on the violator's ability to conduct business. This could involve refusing to supply materials that are necessary to complete production, and impeding shipment or delivery. Therefore, all of these transnational corporations should actively work together to uphold moral and ethical principles of human rights. Issues that involve children should be a priority for these corporations. If necessary, transnational corporations should also put pressure on governments that violate children's rights. This could include a refusal to ship necessary products until there is evidence of strategies to correct the violation. In the case of street children that are being murdered, the perpetrators must be prosecuted and there must be severe punishment for those that attempt to abuse the children.

Third, transnational corporations should be required to provide retribution when they have violated a human rights policy. When a company agrees to provide retribution, the public should not perceive the corporation as expressing wrongdoing, but should applaud them for actively working to correct a situation. This may provide an incentive for a company to clean up its negative activities. For example, in the case of the Latin American street children, there should be monies provided for rehabilitation. Rehabilitation should include curing the drug addiction and providing facilities for the children to survive daily. If possible, efforts should be made to reunite them with their families if there are strong family ties. Funding should also be provided to help get the children off the streets. Although the children's underlying problems stem from the

economic problems in these countries, this would possibly push the governments to prevent the flight from their parents.

To conclude, the street children of Latin America are victims who have suffered and continue to suffer at the hands of an ineffective government and a corporation. Although the Convention on the Rights of the Child was created to ensure that children around the world would be protected, there is no enforcement mechanism to guarantee that countries will comply with the basic principles of the Convention. Therefore, because the world is fast becoming a global economy, transnational corporations are now being scrutinized for possible human rights violations that occur in the countries where they operate or because the corporations themselves are also perpetrators of the violations. Therefore, independent bodies and the transnational corporations themselves have also created policies in direct response to these violations. This maybe a step in the right direction to addressing human rights violation in the global marketplace. Thus, transnational corporations need to demonstrate that they are conducting business in a moral and ethical way by taking additional steps to prevent the victimization of children, and by employing positive actions to correct any violation that does occur.