



The Strategic Aspects of Business Respect for Human Rights Part One: Overview and Reflections on Current Practice

A B-Tech company Community of Practice note¹

July 2021

Introduction

In April and May 2021, the B-Tech company Community of Practice (COP) met for three two-hour sessions focused on the topic of *The Strategic Aspects of Business Respect for Human Rights*. This note offers B-Tech Project's reflections from the first two sessions which covered tech company progress and practices, as well as shared challenges. An [additional note](#) focuses on three cross-cutting issues that merit further industry and multi-stakeholder discussion.

This note should not be read as taking a position – positively or negatively – on the policies or practices of individual technology companies. Readers should keep in mind that participating companies each face their own distinct human rights risks and have distinct internal organizational dynamics and implementation challenges which are not possible to reflect in full in this summary note. Finally, the COP comprises a limited number of technologies companies, all based in the Global North, so themes in this note should not be taken as necessarily representative of the sector globally. The group is also comprised of companies that, while of varying sizes, are not SMEs or start-up tech firms. As such, the materials do not reflect the challenges that can be faced by smaller or younger enterprises seeking to operate, and grow, responsibly.

The B-Tech Project would like to thank the COP companies for their participation in the sessions.

¹ In early 2021, the B-Tech Project launched a company Community of Practice (COP) to:

- Inform B-Tech project guidance and recommendations on the implementation of the UN Guiding Principles on Business and Human Rights.
- Advance practical understanding and capacity among technology companies to implement business respect for human rights, and
- Publicly share insights on emerging practices related to human rights due diligence and remedy in the tech sector.

More information about the COP, including a list of participating companies can be accessed on the [B-Tech Portal](#).

A. Why This Topic?

The increasing public focus on potential harms associated with the design, commercialization and use of new digital technologies, plus the ways in which *not* addressing human rights risks is becoming more and more financially material to tech firms is leading to increased scrutiny about whether tech executives are establishing business cultures and norms of respect for human rights. In other words, tech company leaders are being increasingly expected and incentivized by investors, regulators, and civil society to demonstrate how they are embracing the strategic aspects of business respect for human rights.

As reflected in a past [B-Tech note](#), many large and well-known technology companies are putting in place internal expertise, policies, and processes to implement human rights due diligence (HRDD), including related to the design, development and end-use of their products and services, which is the focus of B-Tech. For these important foundations to translate into effective anticipation and addressing of risks to people, companies will also need to find ways to connect these efforts to strategic corporate thinking and decision-making. This is true for two reasons:

- **First, founders, executives and company governance bodies have a role to play in supporting full and impactful HRDD to be implemented.** The role of senior leaders could range from oversight of a company's prioritization of general areas for HRDD, to allocating resources to a company's human rights programs that are commensurate with the scale and nature of potential adverse impacts, to ensuring product/service development timelines allow for risk mitigations to be designed, to engaging significant government or private sector customers about human rights concerns.
- **Second, significant business decisions made by founders and executives – and scrutinized by boards – can be the source of human rights risk.** By way of illustration, such decisions might concern business model design, market entry and geo-expansion, and acquisitions. For these matters, the question becomes to what degree human rights risks and mitigations are part of senior leaders' decision-making and the subsequent execution of those decisions.

B. Headline Reflections

1. Being methodical in anticipating and prioritizing human rights risks: Technology companies involved in the COP all have a clear perspective about their priority issues. The practitioners in the COP sessions are proactively seeking to understand and learn about the human rights risks connected to the use of their companies' products and services. As mentioned in an [earlier B-Tech COP note](#), there are also a growing number of product/service or technology-specific assessments taking place – for example, on Artificial Intelligence, 5G, and new facial recognition tools. It appears that this work is not limited to Freedom of Expression and Privacy but increasingly includes analysis of how company's might be involved in adverse impacts on all human rights in both online and offline contexts. Further, some companies are working to integrate human rights reviews in product/service design processes, which is a theme that will be addressed via other COP sessions.

Many practitioners have found significant value in corporate-level analysis: whether in the form of internally-led gap analyses of policies and mitigations against a range of risks, or assessments conducted by professional services firms, advocacy groups or others experts. COP participants' perspectives about the value of company-wide analysis varied with some individuals reflecting that

such efforts have sometimes resulted in overwhelmingly large reports of human rights issues across the business, with no related effort to prioritize.

As technology companies pursue paths to make their human rights risk management more robust and credible, B-Tech offers the point of emphasis that **there are two distinct and complementary concepts within the UNGPs that each require methodical approaches, and most technology companies will need to make both a part of their work.**

- First, where companies have complex product/service portfolios with large volumes of suppliers, partners, customers, or end users in their value chain, it is legitimate for a company to identify general areas of significant human rights risk to prioritize for deeper HRDD. This minimizes the likelihood that a company will have blind spots in its management of human rights risks, leaving harms to people unmitigated. For more on this, see [Headline 2 of this B-Tech foundational paper](#)
- Second, when a company is conducting deeper HRDD of a specific product/service and the risks to people that come from its design, development, and use, this may identify a large volume of actual and potential human rights impacts. If, and only if, it is not possible to address these simultaneously, then the company should prioritize by focusing on those that are the most severe in terms of risks to people. Additionally, prioritization does not mean ignoring the remaining issues. For more on this topic, see [Headline 4 of this B-Tech foundational paper](#).

Across the group, practitioners are confronted by the challenge of balancing their attention to day-to-day, emerging and specific human rights risks with the importance of taking a holistic, methodical approach to anticipating and addressing all risks to people. This tension can be more or less intense depending on the nature of the technology company. For example, it may be that consumer facing tech or social media firms have higher numbers of issues they need to respond to each day than B2B tech companies.

Ultimately, companies will invariably need to take time to anticipate human rights risks in parallel to responding to large numbers of diverse, emerging, real-time issues each week or day. Ensuring issues are surfaced and that the company takes appropriate action to address them is part of due diligence. Moreover, an evaluation of the range of adverse impacts that are occurring to spot patterns and root causes of eventual harms can bolster forward-looking due diligence.

2. Significant business decisions meriting human rights analysis: As part of the COP discussions, participants were invited to identify “significant business decisions” made in the technology industry that require some level of human rights risk assessment and mitigation. For the purposes of the discussion, the working definition of “*significant business decisions*” was “*decisions, almost always taken by the most senior executives, about a company’s strategic goals or that are highly relevant to the achievement of those goals*”.

It is important to note that there are a large volume of business decisions made in tech companies on a daily basis that require human rights analysis even though they may not meet this definition or threshold of being a significant business decision. For example, in some technology companies, product upgrades and changes are occurring on a weekly basis without senior engagement.

That said, the reason for focusing on this aspect of corporate strategy and decision-making was three-fold. First, such decisions have the potential to increase risks to human rights, even where a company's values and technologies are geared towards realising human rights and societal benefits. Second, many commercial, competitive, and societal factors will inform such decisions such that potential adverse impacts to the most vulnerable may not always be central to the process. This is not an indictment of technology companies, but rather a reality that tends to play out in all industries. Third, where decisions are made without up-front consideration for human rights by executives it can be especially hard for operational teams to put in place effective human rights due diligence.

During the COP sessions, the group identified the following list of significant business decisions that will usually require human rights analysis and risk mitigation, as early as possible in the decision-making process and at important "gateways" in the execution of these decisions.

Business model design e.g.,

- Revenue models including. decisions about sources of revenue a company will not accept.
- Pursuing new "product verticals" such as integrating AI into the value proposition.
- Major disposals and acquisitions that allow a company to diversify into new market segments.

Business growth e.g.,

- Market entry/exit such as when telcos bid for, negotiate on and secure government licenses.
- Pursuing major government contracts, especially with agencies that have functions that can impact rights protection and realization.
- "Geo-expansion," meaning when a tech product/service is made accessible and available in a new market. This includes decisions about incremental and iterative testing and roll out plans.

Long-term investments e.g.,

- Location of data centres or other infrastructure
- Location of new offices and employees

Adoption of new "disruptive" tech such as e.g.,

- Artificial Intelligence
- 5G
- Augmented Reality

Major product/service design decisions e.g.,

- Establishing the need and parameters that engineers and other are optimizing for in design.
- Expanding or limiting functionalities in certain contexts.
- Global changes to privacy settings/features or content policies

Customer/user decisions e.g.,

- Whether to restrict sales or use of products to certain customers or customer segments, such as not selling surveillance tech to law enforcement.
- Whether to suspend accounts or product access to stop harm from occurring, or address product misuse.

Responding to government requirements/demands e.g.,

- Responding to new or potential regulatory requirements that have the effect of eroding free expression or privacy.
- Content take-down requests
- Network shutdowns or filtering requests
- Data requests
- Including “backdoors” in ICT infrastructure

Other

- Positions and advocacy/lobbying on regulation.
- Structuring workforce/employment relationships.

It should be noted that none in the COP group said that their companies have triggers and systems in place to ensure that human rights reviews occur in every instance. Rather, there was a recognition that this is a necessary part of operating with respect for human rights, and is part of the work ahead for company practitioners.

3. The role of top leadership in human rights risk management: The UNGPs specify that a company’s human rights policy commitment should be “approved at the most senior level of a business enterprise” and “should be embedded from the top of the business enterprise through all of its business functions”. This implies that senior leaders (including executives and the Board, or equivalent) have a role to play in ensuring the company operates consistently with its responsibility to respect human rights. Beyond that, each company will need to define how this happens in practice. There is no one-size-fits all governance model.

With regards to the role of top leadership in human rights risks management, the COP discussion surfaced that:

- Individuals with responsibility for implementation of human rights policies in tech companies tend to have direct access to senior executives. This is usually the company's head of public policy, general counsel or in some cases the CEO. A few companies reflected that they are expected to provide quarterly updates to the executive leadership about the company's human rights issues and risks. Others shared that they often get consulted on dilemmas that leaders are facing.
- Practitioners recognize the need to build the capacity and competence of top executives to apply a human rights lens and the logic of the UNGPs in their own discussions and decisions. This does not tend to happen via formal training but instead when leaders ask human rights leads for their perspectives on specific issues and dilemmas that the company needs to navigate.
- Some companies do have, or are putting in place, processes aimed at ensuring that senior leaders are engaged in human rights risk management. In some cases, certain major business decisions already trigger involvement of the human rights team/lead: examples include government requests impacting privacy and freedom of expression, or major acquisitions. This is clearly a work-in-progress for most companies, as is the idea that executives routinely review and discuss progress and challenges on a company's salient human rights risks.

The B-Tech Project considers that some technology companies have good foundations to build from to enhance senior leaders' involvement in human rights risk management, including by supporting the efforts of human rights teams to embed human rights due diligence across diverse business units/verticals and functions. By way of example:

- Vodafone has a human rights advisory group which is a cross-functional group of senior executives responsible for areas related to human rights e.g. Security. The company also has a board committee where issues of significant human rights impact regularly go for decision. This committee includes the Group General Counsel and other executives.
- Verizon's Business & Human Rights Program (BHRP) is led by a dedicated team that provides centralized leadership on global strategy, business decision-making and internal and external engagement on human rights matters. The team engages with and raises issues to senior leadership through both formal channels, such as escalation paths and briefings, as well as informal channels. These efforts are overseen and supported by Verizon's SVP, Corporate Governance and Chief ESG Officer within the remit of the Executive Vice President and Chief Administrative, Legal and Public Policy Officer. The BHRP's efforts are further overseen by the Corporate Governance and Policy Committee of Verizon's Board of Directors, who receive periodic updates prepared by the BHRP on information about global human rights risks and opportunities related to the company.
- Cisco has created a Human Rights Advisory Committee (HRAC), a cross-functional team consisting of executives and senior-level employees from throughout the company. Among other things, the HRAC promotes and champions business and human rights across and provides subject matter, operations, and offer expertise to inform and refine Cisco's business & human rights strategy.

Disclosure and the Strategic Aspects of Business Respect for Human Rights

Many of the COP participants already report publicly on the implementation of their human rights commitments with others planning to do so for the first time in the next 12-to-18 months. So, while not a topic of discussion in the COP sessions that this note summarizes, the B-Tech team felt it opportune to emphasize that human rights disclosures by companies (in tech and beyond) will increasingly need to elaborate on how a company is approaching the strategic aspects of business respect for human rights. In particular:

- The [UNGP's Reporting Framework](#) includes a section about companies disclosing their salient human rights issues and how those have been determined.
- Global reporting standards, human rights benchmarks and some ESG investor indices include indicators about board-level oversight and discussions of a company's risks to human rights.
- Drafts for new or updated reporting requirements (such as the revision of the [GRI Universal Standards](#) and the [EU Corporate Sustainability Reporting Directive](#)) include references to how companies' business model and strategy aim to avoid negative impacts on the economy, the environment, and people.

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UN Human Rights invites engagement from all stakeholders across all focus areas of the [B-Tech Project](#). For more information please see the project [Scoping Paper](#). Please contact us if you would like to engage with our work, including if you have recommendations for practical tools, case studies and guidance that will advance company, investor and State implementation of the *UN Guiding Principles on Business and Human Rights* in the business of technology.

