

UN Human Rights Business and Human Rights in Technology Project (B-Tech)

Applying the *UN Guiding Principles on Business and Human Rights* to digital technologies

Key takeaways from written submissions received from the open consultation on the draft B-Tech Scoping Paper

Following a multi-stakeholder consultation in Tunis in June 2019 in which UN Human Rights outlined a draft scoping paper for the B-Tech Project, UN Human Rights issued an open call for submissions on the draft paper and the proposed focus areas for the Project. Several submissions were received from different stakeholders, including companies, civil society organisations and academic experts. The B-Tech team thanks all those who contributed their ideas and suggestions.

This blog provides a brief overview of the B-Tech team's key takeaways from the submissions received which have informed the amendments in the final version of the paper and which will continue to inform the design and focus of activities.

There are a number of specific recommendations about issues to emphasize in certain focus areas: the differences in risks to people related to operational context, experts to engage, resources to review, existing initiative to coordinate with, and dilemmas to address. These are not listed here but will be integrated into each work-stream as we progress, supported by engagement with the organizations that tabled them in their submissions.

There was an excellent balance of inputs across stakeholder groups including NHRIs, CSOs, academics, companies, investors and business organizations. While not receiving any written submissions from States, UN Human Rights has been getting inputs from governments bilaterally. Further, the depth and quality of each submission was very high.

The submissions confirmed that there is overwhelming, full support for the project and UN Human Rights showing leadership in this area.

Their key themes and takeaways are as follows.

- 1. Making Focus Area 4 on State Duties cross-cutting:** A common theme was the important role of the State with many of the submissions urging that B-Tech does not treat Focus Area 4 as an afterthought. This resonates with the idea – under-emphasized in the draft scoping paper – that this final focus area will crosscut all of the others. For example, in relation to business models it is inevitable that the role of regulators will be addressed in some form. And a portion of the dilemmas that arise in relation to end-use will concern the role of the State as an end-user. As an early next step, the project will offer more clarity on how Focus Area 4 will be implemented in practice.
- 2. Definitional clarity and mapping technology companies beyond “big tech”:** A number of submissions encouraged B-Tech to be clear on what is in scope and out of scope under the rubric of “digital technologies”. Some comments urged B-Tech to support diverse stakeholders to establish a common and shared understanding of the differences between, for example, platform providers, social media companies, Artificial Intelligence products/services and telecommunications providers. There was further encouragement to look beyond big tech firms to other large, and SME firms in the sector. A key reflection here is that this clarity (whether drawing on existing work or as part of early

B-Tech work) will be an important step in Focus Area 2 addressing human rights due diligence and end-use. This is because a great deal of that work area will need to grapple with the respective role of different actors within tech and opportunities for companies to establish and use leverage to address human rights risks.

3. **Looking beyond tech to the users of tech:** We welcome suggestions that B-Tech expand the focus of the project to users of Tech. At the same time, we need to start somewhere and focus scant resources. Certainly, the work on human rights due diligence and end-use will invariably need to shine a light on the responsibilities of end-users. It is also likely that discussions around specific dilemmas will highlight where ensuring respect and dignity for all will depend on tech users meeting their responsibilities and duties. Finally, and related to point 1 above, it is conceivable that Focus Area 4 could address responsible public procurement of tech products and solutions.
4. **Engaging with how different incentives function in practice, and not ignoring that investors have a responsibility to respect human rights:** Many of the submissions emphasized that B-Tech should recognize that the challenges of responsible business conduct in tech sit within a large political economy and “logic”. In this regard, the submissions noted that the Four Focus Areas offer the opportunity to tackle incentives for responsible conduct. For example, the focus on business models (including the reality that business models can follow a tech disruption) can address how we embed human rights due diligence around dominant commercial logics. The focus on State Duties similarly can address the inter-relationship of different – at times divergent – motivations of States as they engage with the international and domestic tech industry.

The Investor Alliance on Human Rights noted that investors not only have the potential to influence tech industry practices and behaviours, they also have their own obligations to implement human rights due diligence (including using leverage) in relation to the increasingly profitable technology segments of their portfolios. The B-Tech project should explore how to convene investors (include VCs) with this framing in mind.

5. **Looking at both State-based and non-State-based grievance mechanisms in the case of adverse human rights impacts from digital technologies.** Some submissions pointed out the need to also look at the role of State-based grievances mechanisms (whether judicial or non-judicial) in the technology sector and how these can effectively work with company mechanisms. It was also suggested that the work expand on the idea of broad participatory-processes for developing accountability mechanisms such as the types developed for environmental assessments.
6. **UN Human Rights should not ignore the positive uses of tech:** A handful of submissions recommended that the project should address the positive potential to realize human rights and sustainable development goals. Of course, we agree fully in principle, and are exploring the positive uses of tech in many other areas of work / programs. B-Tech is only one of our projects relating to human rights and technology, and we believe that its focus on addressing the risks to human rights is necessary, given the urgent need for further practical guidance on these issues.
7. **Critical technology-related labour rights concerns:** Many submissions offered recommendations for worker and labour rights concerns that B-Tech should address. All of these are critically important. Some will be in scope of the project, while others are already well addressed in other projects and initiatives, not least by worker and employer organizations. We will continually revisit the logic of this thinking as B-Tech progresses, but in essence:

- i. Supply chain issues related to ICT hardware manufacturing (such as child labour, forced labour and conflict minerals) are *out of scope*
- ii. The benefits and risks of large-scale automation are *out of scope*.
- iii. The benefits and risks of using digital technologies to support worker engagement and grievance management are *out of scope*.
- iv. Workplace rights issues that all technology companies need to address as they relate to their own employees or contingent workers are *out of scope*. The exception to this is where diversity of teams might inform more robust human rights due diligence around end-use.
- v. Impacts on workers that are built into technology industry business models such as the use of so-called “Ghost Work” to build up training data are *in scope*.

Finally, a few points related to project deliverables and project process. First, all of the B-Tech scoping paper submissions called for final project outputs to be crafted in a format and tone that can be used by practitioners, and certainly move beyond general re-statements of principles. Many of these referred to business leaders as the audience but there were also strong calls for resources that could be used by civil society organizations, investors and States. We intend for different focus areas to be targeted at different primary user groups. While we cannot tailor outputs for every focus area to every user group, we would welcome collaborations with partners that are well placed to develop audience specific outputs.

Second, UN Human Rights welcomes the reminders of the imperative to engage in thorough consultation with all stakeholders on an equal footing, across diverse geographies and with due attention paid to learning from the views and experiences of affected groups. We are committed to do so and will work with full transparency as broadly as possible, and will also be transparent about the ways in which resources constrain the scope and scale of consultations. Again, UN Human Rights strongly welcomes collaborations with partners that are well placed to host B-Tech consultations.

The B-Tech team, November 2019