The UN Guiding Principles in the Age of Technology

A B-Tech Foundational Paper
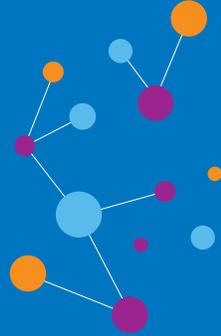
OVERVIEW

The *United Nations Guiding Principles on Business and Human Rights* (UNGPs) offer a **principled and pragmatic approach for ensuring that the world's technological advances are grounded in respect and dignity for all**. The UNGPs carry the legitimacy and strength of being the leading global framework focused on business responsibility and accountability for human rights.

A decade ago, the architect of the UNGPs articulated that "the root cause of the business and human rights predicament today lies in the governance gaps created by globalization—between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences." **The parallels to the current nature and speed of technological development are clear, and we may already be seeing a lack of capacity of society to manage the adverse consequences of disruption.** As a way forward, the UNGPs offer an elegant solution.

For entrepreneurs and executives in all parts of tech industry, the UNGPs provide a roadmap for **operationalizing respect for human rights as part of how they do business**, no matter the focus, size or complexity of the enterprise. The principles focus in equal measure on **the imperative for States to adopt and enforce a smart-mix of rights-based public policy and legal measures** to govern how new technologies are developed, deployed and used. And they provide guidance for what **different actors need to do to deliver meaningful remedy to victims** of business-related human rights harms.

The power of the UNGPs also lies in inciting **new ways of thinking and working that are optimized to the challenges of the 21st Century digital age.** They call on private, public and civil society actors to engage in new and innovative forms of collective action targeted at addressing systemic issues when no one actor can achieve this alone.

ABOUT THIS PAPER

This is a quick-view resource aimed at leaders across the technology sector, civil society, government and the investor community interested in **understanding the value and key features of the *United Nations Guiding Principles on Business and Human Rights.*** It is part of the UN Human Rights *B-Tech Project*

foundational paper series that re-state, explain and clarify the implications of the UNGPs for technology companies and States.

The series of papers aims to provide a shared starting point for all stakeholders—including policy makers/regulators, civil society, investors and business—to use in their own work intended to embed respect for human rights in the business of technology. The papers will also set a **common framework of understanding to underpin B-Tech Project activities, guidance and recommendations** across the project's focus areas. They are the starting point, not the end, of the project's work.

Link to the foundational paper series

– Link to B-Tech Project Portal

– Link to the UN Guiding Principles on Business and Human Rights

THE GUIDING PRINCIPLES
THREE PILLARS

PROTECT

The State duty to protect against human rights abuses by businesses: policies, regulation, adjudication

RESPECT

The corporate responsibility to respect human rights: act with due diligence to avoid infringements and address adverse impacts on human rights

REMEDY

Access to effective remedy for victims through judicial and non-judicial grievance mechanisms

HEADLINES

1. The UNGPs are a powerful tool for guiding technology company conduct because they are **internationally agreed and supported by a diverse set of stakeholders** including business, governments and civil society around the world.

2. The UNGPs are grounded in **a model of 21st Century governance that is well-suited to the pace, unpredictability and complexity of today's technological advancement**.

3. Focusing on internationally recognised **human rights helps companies and their stakeholders pay attention to the most serious and important impacts on people** that can result from their business activities.

4. The **UNGPs set out a principled approach for all companies**—regardless of industry sector, size, structure or operating context—to identify risks to people and take action to address them. For technology companies, this **includes that they anticipate and address issues** that might occur related to the use of their products and services.

5. Human rights due diligence has been embraced by States and other standard setters around the world. This **includes a movement towards mandatory human rights due diligence,** which may well inform regulation of specific technologies or parts of the technology industry.

ONE	The UNGPs are a powerful tool for guiding technology company conduct because they are internationally agreed and supported by a diverse set of stakeholders including business, governments and civil society around the world.

The technology industry—and the social license and trust issues it faces—are global in nature. This makes the international standing and normative nature of the UNGPs a compelling starting point for companies and States seeking to enhance the positive impact and opportunities of technological innovation by **effectively managing associated risks to people**.

The UNGPs were unanimously endorsed by States at the United Nations in 2011. They are the leading global framework focused on business responsibility and accountability for human rights. Equally important, **they were informed by—and continue to be supported by—global business organisations, investors, leading civil society organisations, and national human rights institutions** around the world.

TWO	The UNGPs are grounded in a model of 21st Century governance that is well-suited to the pace, uncertainty and complexity of today's technological advancement.

Meaningful solutions to ensure that technological advances do not increase risk to people and the most vulnerable in society need the dynamic form of governance embodied in the UNGPs *Protect, Respect and Remedy* framework. The framework makes clear the **distinct but complementary role of States and companies** to prevent and address human rights harms associated with business activity.

The UNGPs were developed to give meaning and practical force to international human rights standards in the face of the **complexity, speed,** and **scale** of economic globalization and 21st century business. They embrace the notion that norm development, implementation and enforcement in today's world is highly networked, and rarely effective if only a top-down, State-driven phenomenon. As such, **part of a company's responsibility is to work with peers and other diverse stakeholders to address risks to people and the systemic issues underpinning those risks**. The UNGPs reinforce the power of the law, while also recognizing that laws and lawmakers may need support to keep pace with changing value chains and innovation.

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In light of this, the UNGPs are perfectly designed to guide action in the context of digital technologies which are transboundary and operate at a speed and scale that can be at odds with traditional state-based governance models.

THREE	**Focusing on internationally recognised human rights helps companies and their stakeholders to pay attention to the most serious and important impacts on people that can result from their business activities. This is the case even when those impacts are hard to predict.**

International human rights comprise a list of basic rights that are **universally recognised as necessary for a person to live a life of equality and dignity**, and so be enabled to thrive. They have developed—and will develop—based on debate, cooperation and consensus building between people from many different groups, countries, cultures and ethical perspectives.

For business leaders, starting with "human rights" helps to **focus on the most important impacts on people**, with special attention given to those people who may be most severely impacted by business decisions and activities. Impacts on people that raise to the level of human rights harms also tend to be the issues that, if not addressed, lead to legal, commercial, reputational and social license risks for individual companies or even entire products or industries.

As well as addressing workplace rights for their employees, most industries have policies and processes to confront issues that are grounded in human rights principles. Examples of this in the technology industry include attention to fairness or bias, product safety, freedom of expression and privacy. **So human rights should not be seen as an entirely new field. At the same time, working with all internationally recognized human rights provides a comprehensive framework and can stretch companies to consider less intuitive or obvious impacts on people** such as on political participation, access to public services, freedom of assembly, the right to a fair trial, the right to physical and mental health, and freedom to form and hold opinions.

FOUR	**The UNGPs set out a principled approach for all companies—regardless of industry sector, size, structure or operating context—to identify risks to people and take action to prevent or mitigate them. This includes the expectation that technology companies, make efforts to anticipate and mitigate harms that might occur related to the use of their products and services.**

The global, multi-stakeholder six-year process to develop the UNGPs delivered, for the first time in history, a consensus about how companies should operationalize a commitment to respect human rights. Essentially, **businesses need to "know and show" that they respect human rights in the context of their own operations, activities and business relationships.**

To do this companies must put in place relevant policy commitments, conduct human rights due diligence and engage in remediating harm to victims. This is not a simple compliance exercise, nor is it about setting up a human rights program divorced from core business operations. Operating with **respect for human rights will require advances in governance, integration of human rights**

considerations into relevant processes (for example product design or customer due diligence), cross-functional collaboration, and a culture of learning, problem-solving and openness.

Finally, respecting human rights is a social exercise, not purely a technical or institutional one. The UNGPs challenge companies to shape their relationship with the people they impact **such that affected individuals and groups become an integral part of how a company understands and addresses its impacts** on people. If done authentically, this help technology companies to design and deliver products and services that work for all parts of society.

FIVE	**The expectations of companies set out in the UNGPs have been embraced by regulators, investors and standard setters around the world. This includes a movement towards mandatory human rights due diligence, which could usefully inform regulation of specific technologies or parts of the tech sector.**

Over the decade since the UNGPs were endorsed, they have been **adopted by institutions that are critical to shaping market forces and incentives** towards responsible business conduct. These include the OECD as part of their Guidelines for Multinational Enterprises, the International Finance Corporation, the International Organisation of Standardization and a number of investor-oriented corporate benchmarks. This uptake, which in fact began during the final drafting of UNGPs, reflects that they quickly found life far beyond the realms of the UN system.

Elements of the corporate responsibility to respect human rights are now embedded in legal requirements in several jurisdictions, with proposed new policies and laws are being considered in a number of additional places worldwide. Countries that have taken the lead include France, Germany, Finland, the US, the UK, Switzerland and Thailand. We have also seen momentum for regional rules, most notably led by the European Union. Efforts tend to involve some form of reporting expectation around specific human rights issues and content, while others impose mandatory human rights due diligence requirements. Of particular note has been **the support for mandatory due diligence measures by diverse stakeholders** including leading multi-national businesses.

Many of these standard-setting and regulatory efforts are industry agnostic and so are already reinforcing the expectation that technology companies implement human rights due diligence. But the UNGPS have already begun to feature in tech-specific benchmarks, in national Artificial Intelligence principles, as well as the work of investors, industry standard-setters and professional associations.

These developments reinforce the value to technology companies of implementing respect for human rights consistent with the UNGPs. They also open up the possibility that **human rights due diligence may be a sensible starting point for designing meaningful regulation** around specific technologies or parts of the technology sector.

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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.

UNITED NATIONS HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

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