

UN Human Rights B-Tech Project Peer Learning Platform: Session #2

Human Rights Due Diligence and End Use
15 March 2023



Welcome to the B-Tech Project

The Team

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- Nathalie Stadelmann, Human Rights Officer - *Gender, Member States and Intergovernmental Support, Human Rights Council Liaison*
- Dr Isabel Ebert, Advisor (Zurich, Switzerland) - *UNGPs Compass, “Smart Mix” of Regulation & Policy*
- Stephanie Seale, Advisor (San Francisco, US) - *CoP and PLP, Partnerships*
- Abdul Abdulrahim, Advisor (Lagos, Nigeria) - *B-Tech Africa, SMEs, Tech Investment*
- Ben Pitler, Advisor (Oslo, Norway) - *Investor Track*

Welcome to the Second B-Tech Peer Learning Platform Session

Peer Learning Platform (PLP) Objectives:

- We aim to engage with a **broad group of companies from the tech sector**, or with a particular interest in tech.
- Our focus is on expanding knowledge and learning about how to apply the **UN Guiding Principles on Business and Human Rights (UNGPs)** to prevent and mitigate human rights risks.

Welcome to the Second B-Tech Peer Learning Platform Session

Peer Learning Platform (PLP) Ground Rules:

- The sessions are conducted under the **Chatham House rule**, meaning that what is discussed can be conveyed outside the meeting, but **without attribution**.
- The PLP sessions will not be recorded, though B-Tech will **extract learning and aggregate statistics** on participants, but without attribution. Participation in the PLP sessions will not be made public.
- The focus of COP and PLP sessions is the **advancement of implementation of respect for human rights** by companies that are part of the community. Various **issues relevant to this overall theme are in scope** and permitted for conversation. Additionally, **issues out of scope for discussion** are those that are purely related to commercial interests and motivation.
- Participation in the PLP is open to companies self-identifying as with interests in the digital tech space, and B-Tech does not vet participants in each session. **Participation and/or presentation of any information in the PLP by a company does not constitute an endorsement** of the company or its activities by the UN Office of the High Commissioner for Human Rights, the B-Tech Project or any related programmes. The materials and information provided through the PLP is for general information purposes only and should not be treated as a consultation or used for compliance purposes.

Focus Areas of B-Tech

ONE

BUSINESS MODELS

Identify avenues to address human rights risks related to tech company business models.



MAIN OUTPUTS
TO DATE:

Foundational paper
on addressing
human rights risks in
business models

TWO

PRODUCT/SERVICE HRDD

Promote robust product and service human rights due diligence, while deepening stakeholder insight as to progress and challenges in implementing the harder aspects of the UNGPs.



MAIN OUTPUTS
TO DATE:

4 Foundational
papers on HRDD and
end-use

THREE

REMEDY

Identify the challenges of ensuring access to remedy for harms related to the use of technologies, and spot pathways for action to address these.



MAIN OUTPUTS
TO DATE:

4 Foundational
papers on access to
remedy

FOUR

THE "SMART-MIX"

Host multi-stakeholder dialogue to inform State action about: a) What a smart-mix legal and policy measures means in practice (at times focusing-in on specific technologies, applications); and b) how HRDD and remedy fits into that.



MAIN OUTPUTS
TO DATE:

Foundational paper
on the State duty to
protect

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Tech Company Community of Practice & Peer Learning Platform, Investor Track, Regional Engagement, Civil Society Working Group

Part One: Focus Area Two –

Human Rights Due Diligence in the Context of Product and Service End Use

The four steps of human rights due diligence process

- ➊ **Identifying and Assessing Impacts** to gauge the nature and extent of human rights risks
- ➋ **Acting to prevent and mitigate risks to people**, including via integration within internal functions and processes
- ➌ **Tracking of effectiveness of risk mitigation** responses over time; and
- ➍ **Appropriate communication** of performance with respect to addressing human rights impacts

+ B-Tech recommendations and Community of Practice to „test“ and fine-tune with set of tech company representatives



Illustrative examples: Monitoring at the workplace

Data driven business:

Data collection, processing,
analysis

Analysis of Emails,
Communications, Interaction,
Meetings

Hiring & Recruiting
Algorithms

Profound insights in
individual (work) life

Behaviour of
employees/candidates

Privacy and
connects human
rights risks!
Necessity to carry
out
human rights due
diligence!

Part One: Focus Area Two –

Applying Human Rights Due Diligence to the context of workplace monitoring

Privacy due diligence at the workplace

- ❖ Identifying and Assessing Impacts: **How is e.g. employee privacy impacted by digital monitoring practices? Are there potential human rights risks in hiring practices?**
- ❖ Acting to prevent and mitigate risks to people: **How can intrusive monitoring be stopped – how can employees have a say? How can we remove bias from recruiting algorithms?**
- ❖ Tracking of effectiveness of risk mitigation: **Has the use of workplace monitoring technologies been changed to uphold employee privacy? Have the biases been erased from recruiting algorithms?**
- ❖ Appropriate communication: **Are employees and other affected stakeholders well informed about current practices, and also investors, regulators, etc? ...**



Human Rights Due Diligence: How is your company doing?

Mentimeter poll: What element of the HRDD process is your company doing well?

Mentimeter poll: What element of the HRDD process is your company not doing particularly well (at the moment)?

Part One: Focus Area Two - *Human Rights Due Diligence in the Context of Product and Service End Use*

Part Two: Regulation and the EU Digital Services Act

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How does regulation relate to the UNGPs?

As part of the State Duty to Protect, governments should use a mix of

- incentive-based mechanisms such as export credits
- regulatory options

to require technology companies to respect human rights

- Regulation and Human Rights Due Diligence are closely intertwined:
- regulation in line with the UN Guiding Principles on Business and Human Rights would expect companies to carry out human rights due diligence
- The DSA is one example of a regulation requiring platforms to assess and mitigate human rights risks; a sector overarching one would be the proposal for a Corporate Sustainable Due Diligence Directive



Part Two: Regulation and the EU Digital Services Act

BHR Focus: regulation with implications for technology companies
Coherence important for tech regulation regarding requirements
for technology companies to respect human rights

- corporate responsibility standards
- certainty for rightsholders and companies what conduct is expected
- amplification of human rights due diligence efforts across jurisdictions

Part Two: Regulation and the EU Digital Services Act

- The Digital Services Act entered into force in November 2022
- It differentiates between very large online platforms (VLOPs), online platforms, hosting services and intermediaries

The DSA requires VLOPs to:

- Risk management, crisis response & audits
- Recommender systems: choices
- Ad repositories
- Data access for researchers and supervisory authorities
- Compliance officer
- Further transparency reporting

Risk categories in the DSA



Dissemination of illegal content



Negative effects for fundamental rights, including freedom of expression, data protection, privacy



Negative effects on other societal concerns: public health, security, civic discourse, electoral processes, mental and physical well-being, children



Measures may include:



Adapting content moderation or recommender systems



Targeted measures to limit display of advertisements



Reinforcing internal processes or supervision



Cooperating with trusted flaggers

Cooperating through Codes of Conduct and Crisis Protocols



Part Two: Regulation and the EU Digital Services Act

- Summary: some UNGPs alignment issues in the DSA, but overarchingly an interesting piece of regulation that demonstrates key elements of UNGPs
- Further refinement expected via the Delegated Acts
- Repercussions on other processes such as the UNESCO platform regulation guidelines; and developments in other jurisdictions

Part One: Focus Area Two - *Human Rights Due Diligence in the Context of Product and Service End Use*

Part Two: Regulation and the EU Digital Services Act

Part Three: Q&A, Upcoming Peer Learning Platform Sessions

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PEER LEARNING PLATFORM (PLP)

Starting in 2023, the B-Tech Project is expanding the framework of the CoP.

🔗 Objectives

- The PLP will offer introductions and insights into the UNGPs to companies at various stages of engagement with the Principles. Many may not yet have developed formal human rights policies, or may benefit from the opportunity to engage with peer tech companies facing similar challenges in operationalizing the Guiding Principles.
- The PLP will broaden the accessibility of these resources beyond tech companies in North America and Europe, to include companies focusing on users in Africa, Asia, and Latin America as well.

🔗 Ground Rules

- B-Tech will post brief summary notes of the issues covered in each sessions, with no attribution as per Chatham House Rule.
- Anti-trust rules require that scope of conversation is limited to issues related to the UNGPs and unrelated to sales or competitive activity.
- Participants may join in any or all of the sessions of the PLP, which do not constitute a linear course.

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PEER LEARNING PLATFORM (PLP)

➤ **Upcoming Sessions (subject to change and to participant input and demand):**

- May 10: Human Rights Risks in Business Models/Responsible investment work
- July 12: Regulation and the Smart-Mix concept (UNGPs Compass)
- September 13: Access to Remedy
- November 8: Stakeholder Engagement Vulnerable Groups, Governance Gaps

➤ **Registration:**

- Visit <https://www.ohchr.org/en/business-and-human-rights/b-tech-project> for updated signup info

Thank you

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WEBSITE:

<https://www.ohchr.org/en/business-and-human-rights/b-tech-project>



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