

UN Human Rights B-Tech Project Peer Learning Platform: Session #3

Human Rights Risk in Business Models, Responsible Investment in Tech
10 May 2023



Welcome to the Third 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)** in the technology sector to prevent and mitigate human rights risks.

The aim of the UN Human Rights B-Tech Project:

Applying the lens of the UNGPs to the development, deployment, use and regulation of digital technologies

Workstreams

- Community of Practice (CoP)
- Peer Learning Platform (PLP)
- B-Tech Africa
- UNGPs Compass
- CSO Working Group
- Investor Track

The B-Tech team

- **Lene Wendland, Chief, UN Human Rights Business & Human Rights Unit**
- **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***

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 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.

Part One: Addressing Human Rights Risks in Business Models

Part Two: Responsible Investment in Tech

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

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

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.

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.

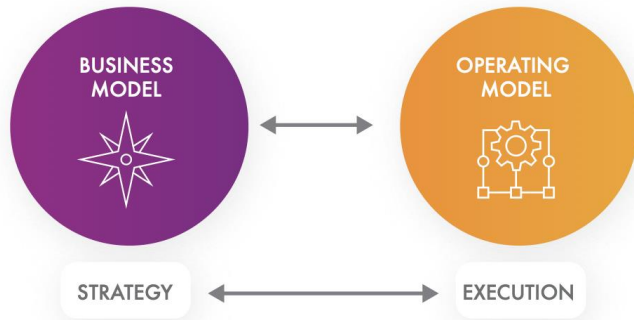
FOUR

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.

Company Community of Practice, Investor Track, Regional Regional engagement, in particular Global South

What is a business model?



A business model defines **how an organization creates and captures value**. This is **distinct from an operating model** which is made up of the processes that transform assets into the valuable actions that the business model depends on.

What is a business model? *cont'd*

Business models are made up of three elements, all of which can create human rights risks:

- A **Value Proposition**: What the company offers and to whom. For tech companies this includes the products, services, insights or solutions it delivers to customers, and who those customers are.
- A company's **Value Chain**: How the company delivers value and who or what it relies on, to do so. For tech companies this includes how they source, treat, and use data.
- The **Revenue Model**: How the company generates financial income in order to be profitable.

Examples of alleged human rights risks in tech business models:

- In social media and search companies, the ***underlying algorithmic systems*** that manufacture virality and preferentially (if unintentionally) promote content that may ***contribute to online and offline human rights harms and grave human rights abuses, even genocide***;
- Short-term rental platforms can lead to escalated rental prices and reduced housing stock with ***disproportionate impacts on the right to housing for poorer residents***;
- Gig economy companies can deploy a business model that depends for its profitability on vast numbers of workers delivering services ***without basic labour rights protection*** including the opportunity to organize, receive sick pay, or get social security benefits;
- AI technologies that "differentiate, rank, and categorise" are in essence "***systems of discrimination***." While not all business models that rely on AI will undermine equality, companies who profit from the use or sale of these tools need to take steps to prevent discriminatory outcomes.

Salient human rights risks in tech – in companies' own words

In the B-Tech ecosystem, the companies we work with only rarely comment publicly on their business model risks. Instead, some refer to "salient human rights" which may be a mix of business model and operational risks (this is from their human rights policies or statements):

- Through "Six Salient Risks" – Responsible Use, Responsible Product Development, Modern Slavery and Decent Work, Responsible Minerals, Inclusion & Diversity, and Water Use
- Through the "risks of misuse of [our] technology in business engagements"
- "Privacy protection, freedom of information and expression," "Review of content," "Accessibility in design"
- "Privacy" - through "encryption, data localization and sovereignty, surveillance by governments, the Internet of things, big data analytics, artificial intelligence," "Freedom of Expression," "Right to equal protection against discrimination," "Health and safety, the right to freely chosen employment, young workers and child labour, promoting and reskilling for the future of work," "Ethical sourcing of minerals," "Pollution prevention and environmental sustainability"

What do the UNGPs say about Identifying Risk?

The UNGPs expect companies to **maintain a wide view of possible impacts**: This means **identifying the risks to all human rights related to the full range of a company's business activities and relationships**. This includes whether and how the design, development, promotion, sales/licensing, contracting and use of its products and services could lead to adverse human rights impacts.

*"UNGP-18: In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either **through their own activities** or as a result of their business relationships. This process should:*

- *(a) Draw on internal and/or independent external human rights expertise;*
- *(b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.*

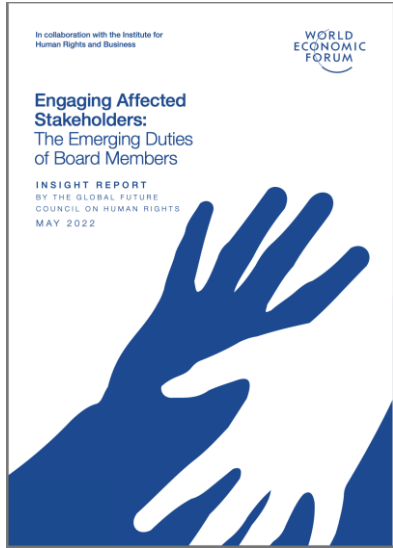
Focus Area ONE:

Addressing Human Rights Risks in Business Models

Demonstrate that the company is taking reasonable steps – consistent with the UNGPs—to prevent, mitigate and remediate harms to people in business models

- **Review performance incentives** for top management and key functions to reward actions that prevent or mitigate human rights harms
- **Stress-test—and as necessary improve—the design of technologies** in ways that demonstrably minimise the risks of severe human rights harms, versus only optimising for maximising revenue
- **Scrutinise plans for testing and expansion in new markets**, with a focus on whether the local context exacerbates business model human rights risks
- **Engage in collective action** with peers, professional associations, customers, civil society and government to develop and implement rights-respecting standards of business conduct and technological design
- **Ensure the company plays a constructive role in processes to develop laws and regulations aimed at increasing human rights protections**

Effective stakeholder engagement at board level as a way to get boards to understand impacts on stakeholders



[WEF Guidance Note 2022.pdf](#)
(weforum.org)

- Guidance from World Economic Forum's Global Future Council on Human Rights on board duties in ensuring company engagement with affected stakeholders.
- Five questions a board should ask:
 1. Does the board know who its affected stakeholders are?
 2. Does the company have appropriate mechanisms to understand the potential adverse impacts on affected stakeholders and how to respond?
 3. Is the board sufficiently engaged in overseeing these mechanisms and ensuring their effectiveness?
 4. Does the board have the right skills, experience and knowledge?
 5. Does the board have the right monitoring and review mechanisms to undertake these tasks?

Part One: Addressing Human Rights Risks in Business Models

Part Two: Responsible Investment in Tech

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

The investor responsibility to respect human rights

- Investors have a responsibility to respect human rights and carry out human rights due diligence.
- Investor human rights due diligence means understanding the human rights risks of investee companies, and understanding those companies' own human rights due diligence processes.
- B-Tech helps tech investors engage tech companies to better understand company human rights risks and human rights due diligence processes

Investors and business models

"A company's business model can be broken down into three key elements, the features of which may bring with them inherent human rights risks"



- Business model-related human rights risks are the likeliest to be reproduced, if not adequately addressed

B-Tech institutional investor tool



LESS STRONG

STRONGER

	Response level	Explanation
	-1 Red Flag – The company contests the relevance of the question without any clear explanation, and/or simply states that it is unable to provide responses, and/or states that it does nothing illegal.	The first two levels pertain to scenarios in which investors receive responses to engagement questions indicating that a company has no processes in place to assess and act on the business model-related human rights risks raised by the question.
	0 Absent – The company recognises the relevance of the question but states that it does not currently have any practice in place to address the issue.	
	1 Nascent – The company describes a regular process with this aim – and provides at least one example from the past 12 months.	Levels 1 through 5 in this evaluation framework reflect points emphasised by experts during consultations on earlier drafts of this tool. These include that: – Examples to substantiate descriptions of processes are critical for investors seeking to ascertain the seriousness of a company's engagement on business model-related risks. – Investors and civil society organisations put significant stock in evidence of open engagement by a company with diverse internal and external stakeholders, and less in evidence of a process or management system merely existing.
	2 Developing – ...AND the company describes how actions from this process are assigned and resourced – and provides at least one example from the past 12 months.	
	3 Good – ...AND the company describes how the board/company is informed by the perspectives of internal stakeholders – including the nature of input provided by teams responsible for human rights, sustainability, etc. – and provides at least one example from the past 12 months.	
	4 Excellent – ...AND the company describes how the board/company is informed by the perspectives of both credible external experts and affected stakeholders (or proxies for affected stakeholders, such as human rights defenders or organisations working on behalf of affected individuals or communities) – and provides at least one example for each category from the past 12 months.	
	5 Leading – ...AND the company publicly discloses its practices and/or plans across all prior levels, including progress and challenges in implementing these practices; number and nature of grievances received, and; processes in place for providing remedy to adversely impacted individuals and/or communities.	

➤ The use of algorithm-supported decision making

➤ Doing business with high-risk customers or end-users

➤ Doing business in conflict-affected and high-risk areas

➤ The use of low-leverage sales practices

CARD 2

Algorithm-supported decision making

For use when a company's commercial success depends, in part or in full, on the development and/or use of machine learning algorithms to make decisions that may materially impact human rights.

OVERVIEW OF THE ISSUE

In many cases, machine learning algorithms are used by companies to optimise or otherwise facilitate their operations in ways that do not pose risks to human rights. However, the use of algorithmic technology can also be linked to risks of real and potential human rights harms. These risks are present across the technology sector and arise where algorithms are used to generate predictions and/or recommendations that, when implemented (especially without human oversight or intervention), negatively impact the rights of individuals and/or communities.

In some cases, this occurs through instances of algorithmic bias, wherein algorithmic outputs unintentionally lead to decisions that adversely affect groups based on characteristics such as ethnicity, gender, sexual orientation, religion, criminal history, family status, etc. This type of bias can result from the use of training data that is incomplete, unrepresentative, or inclusive of inappropriate features or data points, or from errors in the design of decision algorithms themselves, for example.

The use of algorithm-supported decision making has been implicated in instances of alleged unintentional machine bias, for example in [mortgage approval](#) or [healthcare allocation](#) decisions. When government agencies use this technology to make decisions, risks to individuals and communities can be amplified and consequences can be especially serious. Examples of such potential impacts include where machine learning is used to make decisions about [criminal justice](#) or [government assistance programs](#).

Regardless of the level of bias present, machine learning algorithms do not predict with 100% accuracy. This becomes more problematic when machine learning algorithms are used to make decisions that directly impact people—[resource allocation decisions in hospitals](#), for example. In these scenarios, additional human rights risk may be introduced, especially if algorithmically-driven decisions are implemented without human oversight.

In other cases, algorithms designed to deliver recommendations for optimising a specific metric may result in decisions with unforeseen negative consequences for human rights. For example, some contend that social media content recommendation algorithms that prioritise driving users toward the most “engaging” content have instead [surfaced](#)

[extreme or “borderline” content](#)— which has been described as [especially engaging for social media users](#). Accordingly, such algorithms have been accused of [contributing to online extremism](#).

Some social media platforms have taken steps to [de-prioritise extreme or borderline content](#) or to [increase transparency around how borderline content is defined](#). However, some observers argue that [greater transparency around algorithms](#) in general—including content recommendation systems—is needed, and that algorithmic design should be [subject to safety review](#) by independent regulators in a manner that allows for risks to be understood and assessed. This is a complex task, especially given that the inner workings of some machine learning techniques [inherently cannot be interpreted](#). Nevertheless, this complexity should not obviate the need for independent review; the business responsibility to respect human rights applies equally even when the technology in question is especially complex.

ENGAGEMENT QUESTIONS

1. Does the board consider, as part of its decision making, risks to human rights associated with use of the company's algorithm-supported decision making?
2. Does an executive oversee regular assessments of privacy and discrimination risks associated with use of the company's algorithm-supported decision making, while also ensuring that these assessments are conducted in a credible and independent fashion?
3. Does the company take steps to mitigate risk to human rights associated with use of the company's algorithm-supported decision making? Examples of action could include internal controls and escalations, bias training and human rights training for internal algorithm developers and users, regular testing/modifying of its algorithmic systems, technological safeguards, contractual safeguards, or capacity building for customers or end-users.
4. Does the company collaborate with relevant stakeholders, peer companies and/or experts to mitigate systemic risks to human rights associated with use of the company's algorithm-supported decision making?
5. Does the company take preemptive steps to provide or increase access to remedy for individuals that are exposed to the most severe human rights risks associated with the company's algorithm-supported decision making? Actions toward remediation by businesses may take various forms depending on the nature of the harm and the level of the business's involvement. Further guidance can be found in B-Tech's [foundational paper on remedy in the technology sector](#).

Importance to tech companies

- Open communication between companies and investors on human rights risks facilitates investment.
- Investors should—and we believe will—engage with a broader range of individuals within tech companies.
- Direct investor engagement with tech companies on business model-related human rights risks is growing; companies will see more of these investor requests in the future.

Human Rights and Investor Relations: *Is there any communication?*

Mentimeter poll: Do you – as human rights functions within your companies – ever engage with investor relations colleagues?

Part One: Addressing Human Rights Risks in Business Models

Part Two: Responsible Investment in Tech

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

Tech company

PEER LEARNING PLATFORM (PLP)

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

- 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

CONTACT:
ohchr-b-techproject@un.org

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



*Sign up for our
newsletter via
our website*

B-Tech



**UNITED NATIONS
HUMAN RIGHTS**
OFFICE OF THE HIGH COMMISSIONER