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HUMAN RIGHTS
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Five Practices to Improve Stakeholder Engagement in Tech Company Due Diligence

A paper by the UN B-Tech Project

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About this paper

The UN B-Tech Project has produced this paper to provide recommendations for better business practice and collaboration among all stakeholders to enhance the role that affected stakeholders play in the design, development, deployment, and use of digital technologies.

The paper spotlights the following five practices for improving the quality of technology companies' engagement with external stakeholders as part of meeting their responsibility to respect human rights under the UN Guiding Principles on Business and Human Rights:

1. Engage external stakeholders across all aspects of Human Rights Due Diligence and Remedy
2. “Close the Feedback Loop” with stakeholders about how their inputs have shaped business practice and decisions
3. Establish and nurture relationships, not transactions
4. Collaborate to engage voices from the Global South
5. Resource stakeholders to engage with companies' human rights due diligence

The B-Tech Project would like to thank all stakeholders who have contributed to this paper, in particular the dedicated B-Tech working group, and members of the Action Coalition on Responsible Technology.

1. Background: three reasons to improve tech companies' engagement with affected stakeholders

One: Making better business decisions and designing better technologies

Proactive engagement by tech companies with critical voices around the human rights risks of their products and services can build trust in tech companies' decision-making and new digital technologies, thereby reinforcing the industry's social and even legal license. More powerfully, when that engagement is entered into in the spirit of learning and an authentic willingness to see new challenges and adapt accordingly, it can help a company to avoid mis-steps and involvement in human rights harms.

In addition, "stakeholder engagement" is simply part of good business practices, especially when the goal is to design technologies that work for all. Stakeholder engagement can help a company identify how to improve technologies, and the processes to ensure monitoring and oversight of how technologies are used. This includes considering, as part of research and development and product design, ways to minimize the likelihood of human rights harms, especially for at-risk or historically marginalised groups. This ethos, which has been expressed by some as [design from the margins](#), is perhaps the most promising pathway to a digital economy and world grounded in dignity and equality for all.

Two: Tech company engagement is increasing, but there are gaps

In the process of developing this discussion paper, the UN B-Tech Project heard positive examples about how technology companies are engaging with external stakeholders as part of product/service human rights due diligence. Digital Rights NGOs, academics, investors and others have identified an increase in internal tech company capacity to engage with civil society, many more requests for interviews as part of human rights assessments, companies establishing formal consultative groups or councils to advise on company practices, and due care taken to avoid engagement that can expose stakeholders to risks of abuse by third parties, notably States.

And yet, many gaps and challenges around stakeholder engagement have been flagged by civil society and company practitioners, as part of various B-Tech (and other) consultations since 2019. These gaps fall into two categories. First, engagement with stakeholders is felt to be too peripheral, and often transactional, meaning stakeholders feel overly distant from company decision-making processes or that their expertise is being tapped by third parties conducting assessments as a tick-the-box exercise. Second, there are practical constraints, in particular that for some technology companies the number and diversity of affected stakeholders can be vast in scale and affected stakeholders and relevant experts can lack the technological knowledge or simply the resources and bandwidth to respond effectively to company requests for feedback. This paper seeks to unpack these dynamics in more detail.

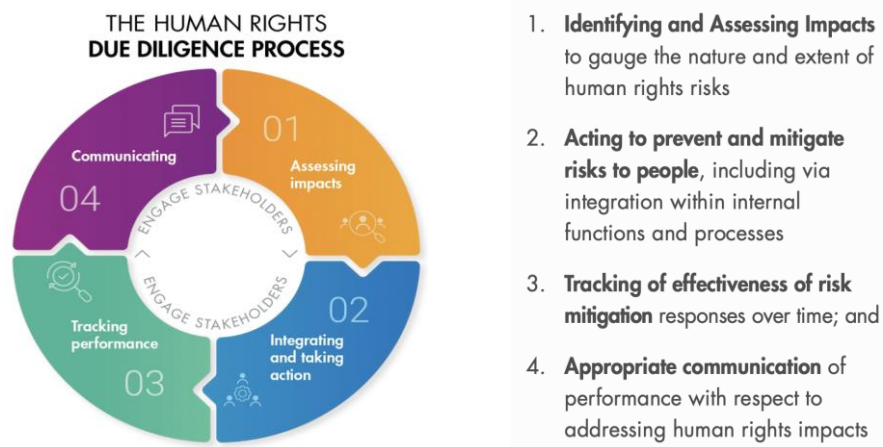
Three: Meeting international standards of business conduct

The [UN Guiding Principles on Business and Human Rights](#) (UNGPs) are the authoritative global standard concerning business-related human rights harms. Almost all major global technology companies have committed publicly to operate in line with this standard. The UNGPs affirm that it is the [duty of States to protect against human rights abuses by business](#). In parallel, all companies have a responsibility to respect human rights across their operations and value chains, including where impacts relate to the design, development, and use of their products and services. To do this, companies are expected to conduct human rights due diligence to anticipate and address harms, and provide remedy where they cause or contribute to harms.

As emphasised in the B-Tech foundational paper [Key Characteristics of Business Respect for Human Rights](#) and shown below, engagement with credible external experts and affected stakeholders (or their legitimate representatives) is an essential part of the entire human rights due diligence process. Moreover, empowering affected people and communities is a vital, though too often overlooked, aspect of remedying harm. This has process-related elements (e.g., providing opportunities for people to challenge decisions) as well as outcome-related elements (e.g., giving affected people a role in monitoring implementation of agreed corrective actions). For more information, see B-Tech foundational paper: [Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#).

2. The UNGPs and Stakeholder Engagement: Key Expectations and Definitions

Human rights due diligence (HRDD) is about people. It reflects the entitlement of every human being to be treated with dignity. It therefore involves relationships— between an enterprise and those on whom it may have an impact. Hence, the key to human rights due diligence and business engagement in remedy is the need to understand the perspective of potentially affected individuals and groups. As shown in the diagram below, companies are expected to engage with stakeholders throughout all phases of HRDD.



Definitions

The UNGPs focus on companies needing to engage with those external stakeholders who will have a strong understanding of the interplay between business operations, values chains, products and services, and human rights impacts. This is distinct from those stakeholders who may influence the company and be impacted by it but not such that their human rights are impacted – such as investors and business partners. Rather, the UNGPs emphasise three types of stakeholders:

- **Affected stakeholders:** any individual or group whose human rights have been affected by an enterprise’s operations, products, or services.
- **Credible proxies:** individuals or groups who are recognised as legitimate representatives of affected stakeholders.
- **Expert stakeholders:** individuals or groups with expert knowledge about the impacts of business on people’s human rights.

Engagement with credible proxies and expert stakeholders can be especially important when direct engagement with affected stakeholders is not possible, or where direct engagement may increase risks to individuals already at risk of harm, such as human rights defenders. If in doubt, tech companies should prioritise the safety, security, and privacy of affected stakeholders over direct engagement.

Navigating situations when numbers of affected stakeholders are high

Technology companies should not interpret the UNGPs as requiring them to engage with every one of the many thousands, even multiple millions, of stakeholders potentially impacted by the use of the company's products and services. Rather, tech companies should seek to hear from a representative mix of stakeholders, with special attention paid to the most at-risk individuals and groups. Moreover, the UNGPs recognise that in some circumstances, companies will be unable to focus at any one time on all of the potential human rights impacts connected to their operations and value chains. In such situations, and as explained in this B-Tech foundational paper, technology companies will need to prioritize specific products and services, customer segments, or use contexts, for deeper due diligence – starting first with the most severe risks and impacts in terms of their scale, scope and irremediability. This focusing of due diligence provides another principle-based approach to make the number of stakeholders that a company needs to engage with more manageable.

3. The five practices and recommendations for action

Practice one: Engage external stakeholders across all aspects of Human Rights Due Diligence and Remedy

Many companies across the technology sector have developed the practice of engaging with expert and affected stakeholders as part of assessing human rights risks and impacts connected to their products and services. Assessments typically focus on corporate-level identification and prioritization of risks; the development, deployment, or adaptation of specific product/services; or country-specific human rights impacts and risks. These are encouraging developments, and more should be done to incentivise the large majority of technology companies failing to engage stakeholders around such assessments.

The challenge, or current weakness, across the technology industry is that stakeholders are rarely engaged to offer input on business decisions and practices that exacerbate or address human rights impacts. In other words, engagement is limited to companies leveraging stakeholder expertise and knowledge to gain a picture of risks and impacts. Less focus is placed on harnessing that expertise to drive improvements and better outcomes for affected stakeholders.

People seeking to raise grievances and seek remedy for human rights harms arising from the use of technology products and services continue to report significant difficulties in identifying, navigating, and accessing the mechanisms and processes best placed to deal with the substance of the issues they face. Moreover, poorly designed remedies that do not take account of the needs of affected people or groups (for instance, a remedy that relies on high levels of digital literacy for people to take advantage of and enjoy) can end up being disempowering for some groups (and hence discriminatory) as well as ineffective.

Recommendations for action

Tech companies need to advance the state of play by:

1. **Engaging stakeholders as part of strategic business decisions that have the potential to increase risks to human rights.** “Strategic decisions” may fall into different categories including business model design, business growth, long-term capital investments, major product/service design decisions, and responding to government requirements/demands. For more information about significant decisions meriting human rights analysis, see the UN B-Tech Community of Practice note, [The Strategic Aspects of Business Respect for Human Rights Part One: Overview and Reflections on Current Practice](#).
2. **Engaging stakeholders in the design and evaluation of actions for mitigating human rights risks.** This connects to the taking action and tracking phases of human rights due diligence. External stakeholders can often be excellently placed to make suggestions on, or provide feedback on, specific steps that companies could take to address potential harms. For example, expert digital rights NGOs often make practical, targeted recommendations to companies in their research and reports, and there is some track record of at-risk users informing changes to social media and networking apps. With regards to tracking, local NGOs and human rights defenders can offer a “view from the ground” about whether mitigations are working as planned. Some companies providing input into this paper highlighted early efforts to leverage the competencies of UX (user experience) research into human rights due diligence – the systematic study of target users and their requirements, to add context and insight to design processes.
3. **Engaging stakeholders as part of designing for, and taking a role in, remedy.** Meaningful consultation with affected people and groups is necessary for a proper appreciation of the informational, legal, practical and procedural barriers that people may face in seeking remedies for human rights harms and the risks that people may face in initiating a remedial process. Such consultation will help ensure these problems can be properly addressed and potential barriers reduced as far as possible.

Board Duties in Ensuring Company Engagement with Affected Stakeholders

This World Economic Forum resource gives a brief overview of the role of corporate boards of directors in relation to the concept of “affected stakeholders.” The note sets out that a board should ask five questions to determine how well it responds to the interests of those most affected by company operations:

1. Does the company know who its affected stakeholders are?
2. Does the company have the appropriate mechanisms in place to understand the potential adverse human rights impacts on affected stakeholders and how to respond appropriately?
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 to undertake these tasks?
5. Does the board have the right monitoring and review mechanisms in place to undertake these tasks?

As the guidance notes, while “most of these issues are then delegated to senior staff to manage on a day-to-day basis... board members are the people at the end of a long chain linking those affected by a company’s actions with those ultimately responsible for the decisions and actions taken. Therefore, board oversight of the relevant mechanisms for managing these issues is essential.”

Practice two: “Close the Feedback Loop” with stakeholders about how their inputs have impacted business practice and decisions

“Closing the Feedback Loop” refers to the practice of informing stakeholders what actions or decisions have been taken based on the feedback they have provided. It does not mean that an organisation should be adopting all of the ideas and views stakeholders provide. In fact, an important feature of the art of closing the loop is to be clear about when recommendations have not been adopted. In such cases, closing the loop is about providing an explanation of the organisation’s rationale, ideally in ways that demonstrate empathy and appreciation for the inputs provided. Closing the loop is part of rights-based thinking and based on principles of transparency, participation, and treating people with dignity, which are embedded across all aspects of the UNGPs.

It is the B-Tech Project’s understanding that technology companies are not doing a good job at closing the loop when consulting with stakeholders as part of human rights due diligence. It is commonplace for companies to ask NGOs, academics, and other stakeholders to participate in interviews, or occasionally workshops, but then fail to set out next steps including how and when the company plans to update stakeholders on how their inputs have impacted company practices. Some stakeholders reflected that this contributes to “engagement fatigue” on their part, which reduces their willingness to invest time and expertise into engagement with companies.

Recommendations for action

Tech companies need to advance the state of play by:

1. Establishing timelines and allocating resources to “close the loop”. This can be done as part of each discrete engagement with expert and affected stakeholders, or via a regular (for example, annual or bi-annual) dialogue with relevant stakeholders. An obvious starting point to implement this practice is in relation to targeted impact assessments, where there is no apparent reason for companies not to share feedback with stakeholders about how they have interpreted inputs and the impacts or potential impacts of these inputs on company practice and/or future thinking. Some responsibility also lies with third-party advisors and consultants to insist that scopes of work include adequate feedback loops.
2. Bringing decision makers and external stakeholders closer together. It is entirely reasonable for stakeholder engagement to be led by a technology company’s sustainability and human rights team, with the view to share inputs gathered with – and where appropriate, acted upon – by relevant internal functions and decision-making bodies. However, an unintended consequence is that a considerable time lag can be created between stakeholders volunteering input and the company evaluating these inputs. If decision-makers, such as from engineering, product, research, legal or commercial teams, were instead part of consultations, this could open up opportunities to reduce this lag. It may even be possible for real-time triaging of inputs along with stakeholders.

Engagement as Consensus Building

Technology companies, just like their peers in other industries, are regularly confronted by stakeholder perspectives and human rights claims that are competing. For example, privacy and freedom of expression advocates can have very different views about tech companies sharing content with law enforcement agencies to detect online abuse and criminal activity; and local citizens and human rights defenders can take a very different view about a telecommunications company's presence in a country in comparison to international NGOs. Bringing diverse and different perspectives into joint, well-facilitated dialogue with the company can aid companies in navigating these situations and enabling better triangulation of concerns and avenues for action. If done well, this can even build consensus around what action the company can take alone or in collaboration with others.

Practice three: Establish and nurture relationships, not transactions

Where a company is able to form relationships with expert organisations and affected stakeholders (or their legitimate representatives), it is far more likely that interactions will be open and honest, and lead to actionable insights. This is because relationships grounded in trust and clear ground rules create a “container” that increases the likelihood of: a) each party investing the time and resources necessary to make individual interactions valuable to the other; b) direct and critical exchanges grounded in the knowledge that the relationship will persist even in spite of significant differences of opinion; and c) arriving at conclusions and actions that work for both parties made possible by a mutual appreciation for the context and constraints that others are working in.

Companies engaged as part of developing this paper noted that they see considerable value when they are able to form longer term relationships with affected stakeholders and civil society organisations. This is, in part, because being able to reach out at short notice for input from civil society experts who are already familiar with the company's structures, personnel, and technologies can be very helpful. This is especially the case when technological advances, unexpected uses of technologies, and the contexts in which technologies are used change rapidly. Equally, for external stakeholders with limited funding or bandwidth to engage companies, longer term relationships can minimize the transaction costs of responding to ad hoc requests because they do not need to skill-up on the company in question.

Unfortunately, many stakeholders who are routinely asked to provide input into tech company human rights assessments and discuss specific dilemmas feel that requests manifest as discrete demands for inputs versus an invitation to be part of the company's ongoing due diligence process. This anecdotal insight is echoed by this finding from [Ranking Digital Rights 2022 Big Tech Scorecard](#) that *“Our standards set a bar for companies to regularly discuss freedom of expression and privacy with a range of interlocutors. We ask whether a company participates in a multistakeholder initiative with a credible assessment mechanism, like the Global Network Initiative, or whether it discloses any other kind of systematic engagement with non-industry, non-governmental stakeholders. This year, no company earned more than half credit, and six companies, all based outside the U.S., earned nothing at all.”*

Recommendations for action

Tech companies need to advance the state of play by:

1. **Establishing and acting in accordance with mutual expectations about the relationship.** It should be feasible for companies to initiate conversation with some expert groups and affected stakeholders (or their legitimate representatives) to establish shared ground rules for relationships. Such ground rules could, for example, focus on predicted regularity of engagement over a 12-month period; up-front investment to provide insight to stakeholders about the company's business model, governance, ways of working, and salient human rights risks; commitments about the ways in which feedback loops will be closed; how both parties will treat information that the company or external groups consider sensitive; agreement about how parties can, and cannot, refer to the relationships; and mechanisms to review if the relationship is working for both parties. In some instances, it may be feasible to agree on a structure for transparent compensation to stakeholders for their time and inputs.

Addressing barriers created by non-disclosure requirements

Some stakeholders are encountering increased demand from companies that non-disclosure agreements are signed as a condition for engagement. Seeking to protect intellectual property and commercially sensitive information is a legitimate business interest, which can support innovation that benefits society at large. At the same time, where this creates barriers to stakeholders engaging with companies, the business practice of using NDAs is at odds with the expectation of the UNGPs. This requires attention from, and dialogue among, all stakeholders in order to find avenues that will work. Areas to explore may include NDAs being specific to certain types of information or the inclusion of sunset clauses that will, after a period of time, allow stakeholders to openly communicate about the fact and content of engagement processes.

2. **Support the exploration of structures, fora, and processes that enable affected stakeholders to express their views to the company.** In the areas of workers impacted by global supply chains, communities impacted by extractive companies, and patients' rights in healthcare, there has been some progress made in establishing formalised mechanisms for affected stakeholders to collectively express demands and interests concerning their human rights. It is unsurprising that, aside from some early experiments at "data subject unionisation," equivalent efforts connected to the design, deployment, and use of digital technologies have not yet been made. Advancing pilots and plans in this area would be a starting point for enabling affected stakeholders to enter into relationships with the tech industry. Some [national human rights institutions](#) have begun to invest considerably in their capacity to engage companies and States regarding digital rights, making them potential catalysts for such exploration.

Relationship building as a two-way street

It is, of course, necessary for external stakeholders to want to negotiate, agree, and act consistently with ground rules for relationships. The UN B-Tech Project perceives that this is an area that could benefit from dialogue involving diverse stakeholders, to reach clarity on when and for whom such ground rules will work. What is clear is that stakeholders who choose not to enter into formally or informally structured relationships should not be penalized or stopped from engaging on a case-by-case basis.

Practice four: Collaborate to engage voices from the Global South

The B-Tech Project heard from both companies and civil society organisations that technology companies are struggling to engage with expert and affected stakeholders outside of North America and Western Europe. There appears to be no contesting the fact that this is an urgent challenge, especially as internet connectivity, digitalisation, and mobile technologies continue to spread rapidly around the world with negative or uncertain impacts on historically marginalized individuals and groups.

There are multiple dynamics that appear to be driving the lack of local, Global South voices being integrated into companies' human rights due diligence. Examples include that: it is commonplace for technology companies to not have offices and personnel in all locations where their technologies are used; the company and external advisors charged with engagement do not have the local networks, language skills, or bandwidth to engage with stakeholders in diverse locations at one time; and that very few stakeholders are equipped to engage with companies on questions of company conduct that span technology, human rights, and interpretation of international standards.

Companies engaged in the process of developing this discussion paper emphasised that membership in the [Global Network Initiative](#) (GNI), alongside international NGOs and academic institutions, has proved a useful way to connect with local civil society and affected groups. Others have pointed to the critical work of NGOs with specific focus on digital rights in their region, such as the [Paradigm Initiative](#) (PIN) across Sub-Saharan Africa (see, for example, PIN's [Building a Human Rights Compliant Tech Business in Nigeria](#)); [ELSAM](#) in Indonesia; [Asociación por los Derechos Civiles](#) (ADC) in Argentina; and international NGOs working and capacity-building with these organisations, such as Global Partners Digital (see, for example, [GPD's tech engagement guide](#), co-authored by GNI).

Recommendations for action

Tech companies need to advance the state of play by:

1. **Initiating regional or country-specific human rights assessments on specific technologies.** This would likely involve companies implementing assessment processes that identify and assess human rights impacts and risks around the use of specific technologies in specific locations. This would have the benefit of making assessments relevant to local expert groups and affected stakeholders, thereby adding a clearer case for their involvement. Companies should also consider designing processes that may take several months and involve initial training of key stakeholders to equip them to engage with companies. Such efforts could be initiated by individual companies or by a handful of companies working together with shared interest and commitment to conduct due diligence on the same or similar technologies.
2. **Establish ways to access the views of expert and affected stakeholders prior to market entry, geo-expansion, or sales in high-risk contexts.** While it is the nature of the technology industry and many companies not to have personnel located in every market where their technologies are used, this is not a good enough reason for companies to find themselves seeking to conduct human rights due diligence or respond to unexpected political and social developments without the ability to understand the experience and views of local experts and affected stakeholders. Instead, tech companies should establish modes of gathering this information and insight – perhaps even through the use of innovative technologies – in parallel to business growth.

Practice five: Resource stakeholders to engage with companies' human rights due diligence

Stakeholder engagement as part of technology companies' human rights due diligence is currently constrained by the significant resource limitations faced by expert and affected stakeholders. This undercuts the ability of technology companies to operate consistently with international standards. It also risks sustaining a dynamic in which power and knowledge imbalances between the industry and at-risk individuals and groups lead to avoidable human rights harms, the erosion of the social license for tech companies to operate, and blockages to technological innovation that is grounded in dignity and respect for all. Moreover, when stakeholder competence, confidence, and capacity to engage companies is patchy, it dramatically reduces the likelihood that laggard companies will be held to account by society. This creates an uneven playing field that penalizes companies seeking to operate responsibly.

Recommendations for action

The details of any initiative to address this challenge would require extensive dialogue among industry leaders, civil society, and government. However it seems clear that tech companies should explore the potential to unlock major levels of independently governed and allocated funding streams to accelerate the capacity of civil society and affected stakeholders to call for and provide input into human rights due diligence across the industry. Such a fund or funds could resource, for example, national and regional digital rights NGOs, development and dissemination of educational tools to demystify the tech ecosystem and specific technologies, academic fellowships focused on responsible business conduct in the tech sector, and even the piloting of new representative structures for the digital age.

4. Looking ahead

The UN B-Tech Project invites companies and other stakeholders to share examples of practice that align with the calls to action set out in this document. Where appropriate, we plan to find ways to profile this work via the B-Tech Project web portal and the Project's consultations and outputs.

For more information about this work, or B-Tech more generally, please email ohchr-b-techproject@un.org.

Business & Human Rights



UN Human Rights leads the business and human rights agenda within the UN system, including by developing guidance and training relating to the implementation of the UN Guiding Principles on Business and Human Rights for States, business, civil society, and other relevant stakeholders.

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