Empowering National Human Rights Institutions (NHRIs) in the domestic implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in the technology sector in Africa

31 October 2023, (12:00 - 14:30 EAT) Virtual Workshop

This Workshop was organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) B-Tech Africa Project supported by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The B-Tech Africa Project is part of the B-Tech Project and it seeks to implement the United Nations Guiding Principles on Business and Human Rights (UNGPs) in the technology sector in domestic contexts through engagement with key stakeholders including National Human Rights Institutions (NHRIs). The Workshop focused on empowering NHRIs in the domestic implementation the UNGPs in the tech sector in African countries.

Objectives of the Workshop include:

- identifying the role of NHRIs in the domestic implementation of UNGPs in the technology sector in Africa;
- exploring the role of strategic stakeholders in the domestic implementation of the UNGPs in the tech sector; and
- mapping critical areas of collaboration between NHRIs and stakeholders on the domestic implementation of the UNGPs in the technology sector in Africa.

Summary of the Workshop

The Workshop was divided into three panels to address the Workshop objectives. Each panel had four presentations with focus on various sub-topics. Presenters and participants included representatives of selected NHRIs; civil society; University-based research institutions; tech businesses; regional and international organizations with expertise on NHRIs; business and human rights experts; tech policy experts, international development partners, public interest law firms and others.

I. Identifying the role of NHRIs in the domestic implementation of UNGPs in the technology sector in Africa

Sinethemba Memela *Senior Researcher at the South African Human Rights Commission (SAHRC)* highlighted the role of the SAHRC in legal reform in the technology sector in South Africa. Some of the ways the SAHRC has performed this role includes the development of a Social Media Charter (Charter) and submitting comments to the Parliament on proposed laws. The Charter was developed to assist social media companies, users, law makers, and children with respect to their online activities. The SAHRC has also commented on different proposed laws including the Prevention and Combatting of Hate Crimes and Hate Speech Bill and the Cybersecurity Act.

Cyrus Maweu *Deputy Director at the Kenya National Commission on Human Rights (KNCHR)* shared some of the efforts of the KNCHR with respect to Operational Grievance Mechanisms (OGMs) to facilitate the domestic implementation of the UNGPs. This includes developing model guidelines that businesses can adapt to their context and specific needs including a guiding framework on how to operationalize remedies under Pillar III of National Action Plan on Business and Human Rights (NAP). He noted that the starting point for addressing human rights violations is providing remedy and ensuring the effectiveness of remedy mechanisms. Some of the key considerations for remedying such violations include access to remedy to the mechanism and the outcome of substantial redress for violations that are presented before it.

Pwadumdi Okoh *Assistant Director at the National Human Rights Commission (NHRC)* opened her remarks by focusing on the role of the NHRC in providing remedy for victims of violations linked to the tech sector. While Nigeria does not currently have a legislation to protect against these violations, the NHRC is tasked

with the responsibility of addressing them. She noted that some of the remedy-focused activities of the NHRC includes training of companies and regulatory agencies who have remedial frameworks in Nigeria; monitoring companies to ensure they do no harm to communities through their businesses; ensuring that companies provide adequate remedial options in carrying out their business; encouraging proactive reporting by companies to monitoring agencies to ensure that their conducts are appropriate; training NHRI staff on various tech harms and planning targeted training for legal practitioners in Nigeria on the UNGPs.

Khalid Ramli *Director at the National Human Rights Council, Kingdom of Morocco (CNDH)* highlighted the CNDH's efforts towards the development of a NAP. He noted that domestically, the CNDH submits a report to the parliament and the government with a chapter devoted to Business and Human Rights which also includes developments in the tech sector. Externally, the CNDH works with African Union mechanisms; engages the UN Working Group on Business and Human Rights; is currently a member of the Global Alliance of National Human Rights Institutions (GANHRI) Working Group on Business and Human Rights and participates on the UN process towards a binding instrument on Business and Human Rights.

Key takeaways from the panel

- NHRIs can develop rights-respecting standards and submit comments to the parliament on proposed laws and policies in the technology sector.
- Operational Grievance Mechanisms (OGMs) should be community-led and provide for its scope, the types of harms it addresses and the remedies available.
- It is recommended that judicial officers should be trained on the relationship between businesses, human rights and technology in African contexts.
- NHRIs should commit to the development of domestic standards on business, human rights and technologies. This includes strategic engagements with domestic and international actors.

II.   **Exploring the role of strategic stakeholders in the domestic implementation of the UNGPs in the tech sector**

'Gbenga Sesan *Executive Director at Paradigm Initiative* noted some of the key roles of civil society in the domestic implementation of the UNGPs in African countries and these includes the documentation of violations and best practices either through research or victims' experiences. He stated that civil society may also assist those who are not aware of how to protect their rights online through awareness and this also includes instituting public interest litigation to test the laws that may improve how victims can access available remedies. Lastly, he noted that advocacy is critical in order to spotlight key digital rights developments in domestic contexts.

Mercy Obonyo *Program Officer at Network of African National Human Rights Institutions (NANHRI)* highlighted the importance of the NHRI Digital Rights Alliance (Alliance). The Alliance was a strategic partnership formed between NHRIs and the Danish Institute for Human Rights to strengthen NHRIs' promotion and protection of digital rights. She stated that capacity building and peer learning initiatives such as this have the potential of assisting NHRIs to report on the impacts of technologies at the national, regional and international levels. These initiatives according to her can also assist NHRIs identify more means of support and collaboration.

Emilar Gandhi *Head of Global Engagement at Meta* shared some of the ways Meta carries out its human rights due diligence and this includes information-sharing, collaboration, capacity-building initiatives and human rights impact assessments. She also shared that companies' collaboration with key stakeholders in the technology sector is key for meaningful human rights due diligence.

Sinethemba Memela, *SAHRC* noted the importance of multi-stakeholder partnerships for national coordination mechanisms. Currently, South Africa's NAP is being developed and therefore it becomes expedient for NHRIs to create spaces for meaningful engagement with broad range of stakeholders in the development of the NAP and other coordination mechanisms which do not exist currently. These stakeholders will include groups working on tech and human rights, civil society, academia, experts and government actors as well.

<u>**Key takeaways from the panel**</u>

- Civil society spotlight digital rights violations, raise awareness on available remedies for such violations and highlight the importance of existing instruments such as the UNGPs in domestic contexts in Africa.
- Activist tech companies should lead the charge in ensuring proactive transparency and accountability through the UNGPs.
- Collaboration and sustained partnerships among key stakeholders are essential in order to achieve company human rights due diligence.
- Multi-stakeholder collaborations are crucial for establishing national coordination mechanisms for the domestic application of the UNGPs in African contexts.
- The capacity of NHRIs can be further strengthened through strategic collaborations with key stakeholders in the technology sector.

III.   Mapping critical areas of collaboration between NHRIs and stakeholders on the domestic implementation of the UNGPs in the technology sector in Africa

Khalid Ramli *CNDH* shared that NHRIs and business can collaborate through engagements with key stakeholders and information-sharing. Other means of specific means of collaboration can include combatting fake news and loss of personal data during elections, the establishment of National Points of Contact to improve communication between NHRIs and businesses and legislative monitoring for legal developments in the technology sector.

Emilar Gandhi *Meta* noted that NHRIs play a central role as critical partners in helping businesses understand the impact of social media platforms on human rights in domestic contexts. Therefore, it is important to build and strengthen partnerships with them. She noted that partnerships between NHRIs and businesses can be strengthened by co-designing solutions to address human rights harms.

Pwadumdi Okoh *NHRC* shared the collaborative relationship between the NHRC and civil society. Some of them include the co-development of the NAP and facilitation of multistakeholder dialogues.

'Gbenga Sesan *Paradigm Initiative* highlighted some of the existing collaboration between civil society and the NHRC in Nigeria. He referred to a proposed law on the promotion and protection of digital rights in Nigeria – the Digital Rights and Freedom Bill. The proposed law was developed by key stakeholders with support from the NHRC as the implementation agency for the bill should it become law.

Cyrus Maweu *KNHRC* highlighted how NHRIs and the academia can work together and this includes research, litigation support, joint capacity building initiatives and co-designing tools for transparency and accountability in the technology sector.

Professor Nnenna Ifeanyi-Ajufo *University of Bradford* recommended a more critical perspective in considering the term 'academia' so as not to limit collaborative opportunities. She recommended that research dissemination should become open access in order to provide a viable pipeline between research and policy. She also pointed out the need to establish digital rights clinics focused on the African context

and the need to bring in NHRIs in multistakeholder conferences to build a bridge between theory and practice.

Claris Ogangah *Human Rights Specialist at OHCHR, Kenya* reiterated the mandate of NHRIs which includes cooperation with UN human rights mechanisms. She noted that the relationship between NHRIs and UN human rights mechanisms is two-way. This relationship often involves the exchange of information, capacity building, technical support and other means of mutual support.

Key takeaways from the panel

- Collaboration between NHRIs and tech businesses can improve identification, prevention and mitigation of adverse human rights impacts in domestic contexts.
- NHRIs and technology businesses can co-design solutions to address adverse human rights impacts.
- NHRIs and civil society can collaborate on the development of national legal standards for the protection of digital rights.
- African NHRIs will benefit from more international visibility to facilitate strategic partnerships.
- Collaboration between NHRIs and academia will ensure evidence-based policy development and implementation for the technology sector in African countries.
- NHRIs require more financial and technical resources to collaborate meaningfully with key stakeholders in the technology sector.

VI. Conclusion

The NHRI Workshop provided an opportunity for key stakeholders to learn more about the B-Tech Africa Project. It was a forum for key stakeholders to understand the critical role of NHRIs in the domestic implementation of the UNGPs in the technology sector in Africa and how these key stakeholders can work together towards rights-respecting technology regulation in the region.

Stakeholders called for building on the various activities of the B-Tech Africa Project and the need to deepen the ongoing conversation among key stakeholders such as NHRIs, government actors, regional institutions, tech businesses, civil society, academia and others. Importantly, stakeholders call for increased collaboration among NHRIs and other key stakeholders through convenings, research, policy development, capacity building initiatives and advocacy campaigns on how to implement the UNGPs in domestic tech sectors in African countries.

Contact:
We are open for engagement with all stakeholders. For more information, please contact our team by emailing: OHCHR-B-techproject@un.org.

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Participating organizations

- South African Human Rights Commission (SAHRC)
- Kenya National Commission on Human Rights (KNCHR)
- National Human Rights Council, Kingdom of Morocco (CNDH)
- National Human Rights Commission (NHRC), Nigeria
- Centre for Intellectual Property and Information Technology (CIPIT), Strathmore University, Kenya
- Meta
- Flutterwave
- Danish Institute Human Rights Institute
- London School of Economics (LSE)
- University of Bradford
- amaBhungane
- Webber Wentzel
- Network of African National Human Rights Institutions (NANHRI)
- GIZ
- Paradigm Initiative
- Research ICT Africa
- OHCHR, Kenya
- Alt Advisory