

B-Tech Peer Learning Platform

Summary Note — Fifth Session

INTRODUCTION

On 13 September 2023, the [UN Human Rights B-Tech Project](#) held the fifth session of the Peer Learning Platform (PLP), a series of webinars open to participants from a diverse range of tech companies from different geographic regions.

The B-Tech Project aims to prevent and mitigate human rights risks relating to the development and use of digital technologies. This is done through promoting effective implementation of the UN Guiding Principles on Business and Human Rights (“UNGPs”) in tech. Over the past years, the B-Tech Project has engaged with several companies in the sector through the [Tech Company Community of Practice \(CoP\)](#), which has greatly informed and enhanced the many different B-Tech [outputs](#). To expand engagement to more companies from diverse geographic regions, the B-Tech Project introduced the PLP to be open to any company from the tech sector or with an interest in the application of the UNGPs to the sector.¹ The PLP is intended to:

- Broaden tech companies’ engagement with the UNGPs, informed by B-Tech foundational guidance;
- Support capacity building within these companies;
- Broker connections among human rights functions across the industry; and
- Foster geographic outreach to tech firms headquartered globally.

Held in two sessions at 10am CET and 9am PDT to accommodate participants in different time zones, the fifth convening of the PLP introduced participants to the [Access to Remedy in the Technology Sector](#) and provided a roadmap to designing and implementing effective remedy mechanisms under the UNGPs.

PART I: REMEDY ECOSYSTEM UNDER THE UNGPs

Stephanie Seale began with an introduction to the session. Jennifer Zerk² gave a presentation on Access to Remedy. The presentation covered the key features of effective remedy and helped the participants understand the exigencies of designing and implementing effective grievance mechanisms in the tech sector.

The presentation started with a definition of effective remedy under international law, where effective remedy is that which restores the situation of the victim to the original state before the violation of their human rights occurred. The participants were introduced to five types of

¹ Participation in the Peer Learning Platform is limited to representatives from industry to foster an open, peer learning environment. B-Tech offers a separate opportunity for civil society representatives, as well as various multi-stakeholder engagements and events.

² Stephanie Seale and Jennifer Zerk are Advisors to the B-Tech Project.

remedies under the [UN Basic Principles and Guidelines on Right to Remedy](#), namely: **Restitution; Compensation; Rehabilitation; Satisfaction; and Guarantees of non-repetition.**

An emphasis was made that the remedy must be adequate, effective, and prompt. Adequacy depends on the type, design, and scale of the remedy, with due consideration to how suitably it is tailored to the situation. (For example: should be non-tokenistic and should make a targeted contribution to remediating the harm caused). The company needs to measure the nexus it has with the violations whether it **caused or contributed to the harm or was linked to it**. If that company caused or contributed to it, then it should take a prompt and pro-active role in remediation. Where an adverse impact is directly linked to a company's operations, products or services by its business relationship with another entity, that company should consider what means of leverage might be available to help address the harm, and use it where possible.

It was stressed that whichever means of remedy is used, the **ultimate test** for the assessment of the effectiveness of the remedy is whether rights holders themselves feel that an effective remedy has, in fact, been delivered.

The speaker shed light on the three main types of remedy mechanisms under the UNGPs: State-based judicial mechanisms, State-based non-judicial mechanisms and non-State-based company grievance mechanisms. Special emphasis was given to the inter-connections that exist between different types of mechanisms – and the various ways that these could be mutually reinforcing. The speaker urged participants not to view company-based mechanisms in isolation, but as part of a broader “remedy ecosystem”. A thorough understanding of the remedy ecosystem is necessary for a realistic view of where a company can best have impact.

Also discussed was the fact that UNGPs do not necessarily require companies themselves to provide, by themselves and on their own initiative, a comprehensive solution for all kinds of human rights impacts that may be connected with a technology company's activities. Sometimes the delivery of an effective remedy will necessarily demand a judicial or regulatory response (for instance in situations where there have been severe and widespread breaches of rights of privacy, or in cases where human rights risks have the potential to cross national borders). In such cases companies should reflect carefully on how they can enhance the effectiveness of State-based processes, as well as which aspects of an effective remedy it would be appropriate and realistic to offer themselves. In many cases, companies are likely to find that remedying human rights-related harms demands creativity and collaboration, for instance between different actors in a supply chain. In practice, people may not rely on just one route to remedy. They may need to use a combination of approaches – involving various different types of actors, organisations and mechanisms – to get the remedies they need.

PART II: DESIGNING AND IMPLEMENTING EFFECTIVE GRIEVANCE MECHANISMS IN TECH

Dr. Zerk suggested that the **strongest indicator** of an effective grievance mechanism is how meaningfully a company has engaged with stakeholders and consulted the ones for whom they are being developed. This can be done through various measures: Pilot Programmes; Transparency; and collecting feedback. Dr. Zerk also laid out several observations relating to how an approach to remedying harms, based on the UNGPs, will typically evolve, i.e.:

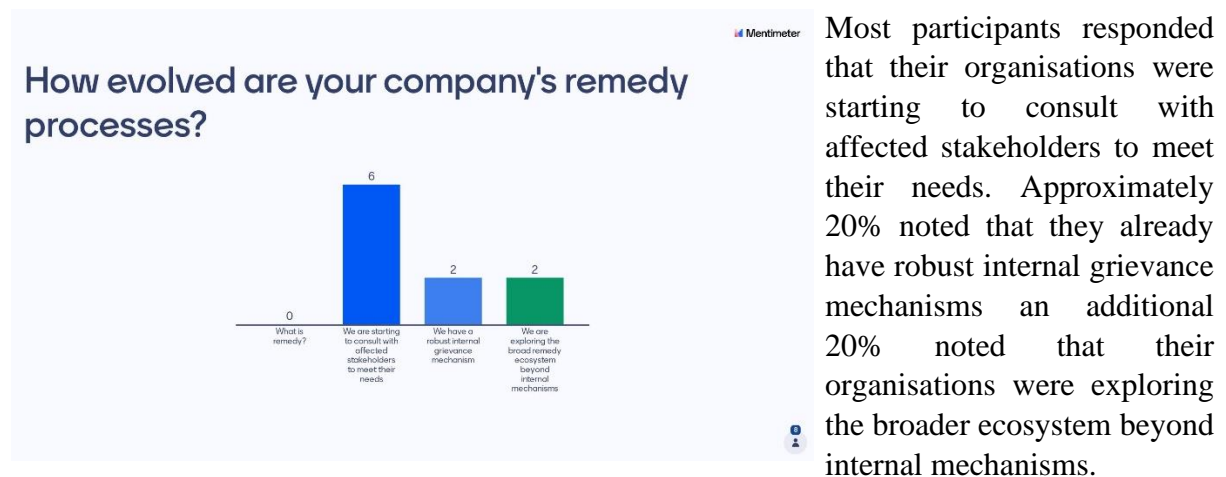
1. Conducting proper due diligence on the range of potential harms based on **nature of the business, number and design of products, size of the organisation and linkages with**

other potentially harming components should provide a reasonable picture of the types of risks that will need to be anticipated in a remediation strategy.

2. Analysing already available mechanisms and their propensity to address human rights risks or harms. A wide range of in-house mechanisms may potentially be of relevance here, **such as responsible sourcing alert systems, labour-related mechanisms, technical support mechanisms, provision for the right to be forgotten, etc.**
3. Companies should reflect not only on the different ways in which they can be a “remedy provider” but also on how they can be “enablers” of remedy. Technology companies are particularly well placed to be “remedy enablers,” for instance by contributing to programmes to enhance digital literacy, engaging constructively with law and regulatory reform projects, identifying ways of enhancing the synergies between company-based and regulatory processes, or by raising awareness about human rights risks associated with different technologies and the steps people can take to learn more and protect themselves.
4. A strong degree of creativity, pragmatism, and functionality is also required along with understanding of legal and regulatory rules to make the mechanisms more effective and relevant. Working out a company's optimal response for meeting their “Responsibility to Respect” under the UNGPs requires an understanding that every company, and the “remedy ecosystem” it is working in, is unique, and will likely demand a bespoke response.
5. Companies need to avoid setting unrealistic expectations about what their in-house mechanisms can and can’t realistically do. They need to communicate clearly what is within and outside scope, the circumstances in which referrals might be made to other mechanisms, and where people can go for additional help and support.

PART III: COMPANY PERSPECTIVES ON DEVELOPING ROBUST GRIEVANCE MECHANISMS

The session moderators conducted a poll to gauge the stages of their own companies’ familiarity with remedy processes:



After this exercise, the session welcomed two speakers from one of the companies, who shared best practices from their grievance mechanism. They shed light upon how to improve access by external stakeholders to the grievance mechanism through increased communication and translation.

The company is mindful to take into account existing grievance mechanisms at their suppliers to ensure that workers raise their claims to their own employer in the first instance. This is done to ensure that their grievance mechanism does not circumvent or undercut the supplier's grievance mechanism, to avoid tensions or stressing of relationships.

The first speaker also shared their thoughts on the importance of effective reporting by mapping how many adverse human rights impacts the company has had within a year, and the points within the value chain where they originate from. They do this by creating issue spotting guidelines, especially clear definitions for issue spotters along with advice on which team to go to for better results regarding specific issues.

The second speaker shared best practices on supplier relationships and worker participation. They emphasised how they have been collaborating with their suppliers to strengthen the mechanisms by synergising their approaches. Worker participation and consultation is the key element in doing so. The workers must be allowed and encouraged to participate in various stages of grievance redress processes, including easy access to grievance submission and an active participation in subsequent stages. This is achieved through careful consideration of worker demographics like age, nationality, kind of work etc. along with their susceptibility to the kind of harms.

PART IV: Q&A AND OVERVIEW OF UN HUMAN RIGHTS' HR75 CAMPAIGN

Participants raised their concerns regarding the issues of allocation of responsibility within a value chain, where multiple actors are involved in adverse human rights impacts. The experts shed light on possible approaches including but not limited to:

- ✓ Starting HR impact assessment at an early stage, preferably from the product development phase.
- ✓ Examining the remediability of different kinds of human rights related harms: what can and cannot be directly remediated?
- ✓ Mapping the critical points in the value chain which have or may potentially have an adverse impact.
- ✓ Trying to cover responsibility for addressing different kinds of human rights risks in into supplier contracts.
- ✓ Offering assistance and guidance to the supplier in remediation process.

OVERVIEW OF UN HUMAN RIGHTS' HR75 CAMPAIGN

Human Rights 75 is the UN Human Rights Office's campaign to celebrate the 75th anniversary of the Universal Declaration of Human Rights. The global campaign is intended both to celebrate the document and its relevance today, as well as to formulate a vision for global human rights over the next 25 years. To that end, the office has established an opportunity for Member States, civil society organisations, companies, and individuals to make pledges to demonstrate their commitments to human rights: <https://www.ohchr.org/en/human-rights-75/pledge>. B-Tech invites PLP participants to make pledges so that the work of the tech sector in supporting and respecting human rights can be elevated and highlighted.

UPCOMING PLP SESSION FOR 2023:

November 8: Stakeholder Engagement, Vulnerable Groups & Governance Gaps

These sessions are subject to change and may be amended based on participant input and demand. The B-Tech Project welcomes participants to share their ideas for particular dilemmas or urgent topics to be covered in future PLP sessions. Participants may join in any or all of the sessions of the PLP, which do not constitute a linear course. B-Tech will post brief summary notes, such as this one, of the issues covered in each session, on our [website](#). As per the Chatham House Rule, these notes will have no attribution.

For additional information about the B-Tech Peer Learning Platform, please contact OHCHR-b-techproject@un.org.

For more information about the B-Tech Project, including past and upcoming activities, please visit the B-Tech [project portal](#).

