

UN Human Rights B-Tech Project Peer Learning Platform: Session #5

Accountability & Remedy
13 September 2023



Welcome to the Fifth 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.

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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.



Part One: Accountability & Remedy – *an introduction*

Part Two: Accountability & Remedy – *company perspectives*

Part Three: Q&A, HR75, 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 of 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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Focus Area THREE:

Accountability and Remedy



REMEDY

Access to effective remedy for victims through judicial and non-judicial grievance mechanisms

B-Tech foundational papers on:

- “Access to remedy and the technology sector: basic concepts and principles”
- “Access to remedy and the technology sector: a ‘remedy ecosystem’ approach”
- “Designing and implementing effective company-based grievance mechanisms”
- “Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups”

What we will be covering today

- Basic concepts and principles from international law
 - The right to an effective remedy; and
 - What is an effective remedy for human rights harms?
- Key takeaways from the B-Tech foundational papers on access to remedy
- Designing and implementing grievance mechanisms for the remediation of human rights harms
 - The importance of a “remedy ecosystem” approach
 - Key issues to consider at the scoping and mapping stages
 - What is “meaningful” stakeholder consultation? (and how to make it work)

A2R: What constitutes an effective remedy?

Aim of remedy: counteract or make good any human rights harms that have occurred

Basic Principles and Guidelines on the Right to a Remedy (GA Res. 60/147)

- Remedy should be **adequate, effective, and prompt**, and can involve:
 - **Restitution:** to restore the affected rights holders to the original position before the abuses occurred
 - **Compensation:** for any economically assessable damage
 - **Rehabilitation:** which could include medical care, as well as legal and social services
 - **Satisfaction:** which could involve cessation of a continued human rights abuse, public apology, symbolic remedies, etc.
 - **Guarantees of non-repetition:** actions to avoid the recurrence of similar abuses in the future

Ultimately, the best judges of whether a remedy is “effective” are the rights holders themselves.

A2R in the UNGPs: Overview

State Duty to Protect

- **UNGP 1:** States are required to take appropriate steps to investigate, punish and redress

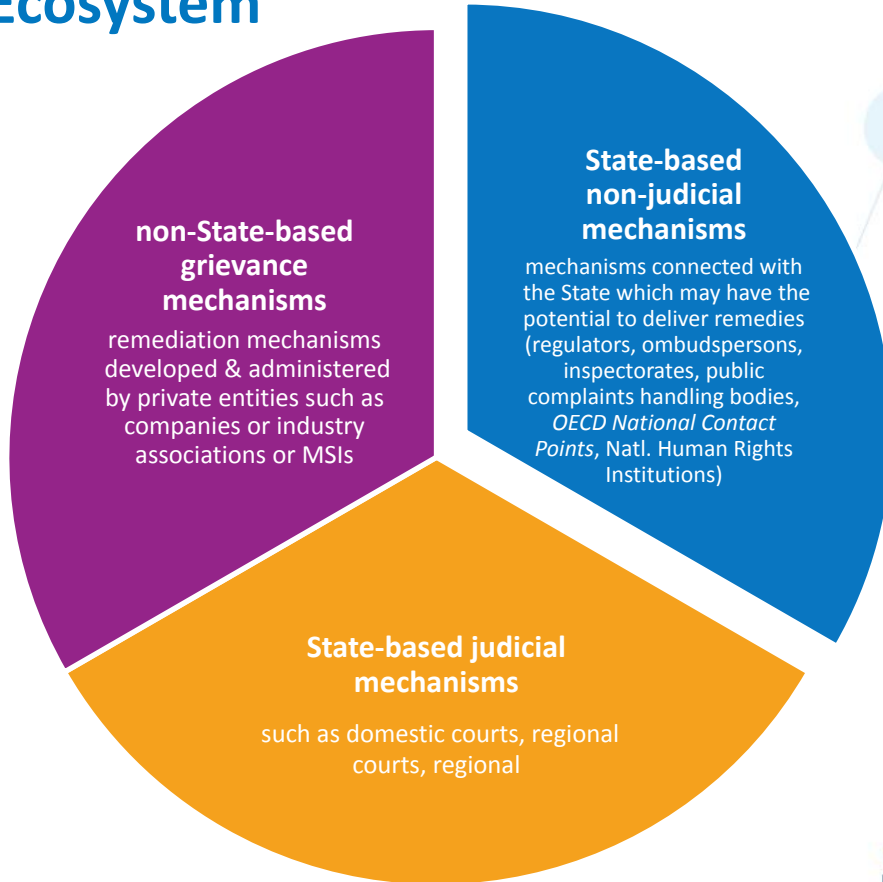
Corporate Responsibility to Respect

- **UNGP 22:** Business should provide for or cooperate in remediation of impacts they **cause** or **contribute to**

Access to Remedy

- **UNGP 25:** States must ensure impacted individuals and groups have **access to effective remedy**
- **UNGPs 26-27:** **State-based** judicial & non-judicial mechanisms
- **UNGPs 28-30:** **Non-State-based** grievance mechanisms
- **UNGP 31:** **Effectiveness criteria** for non-judicial mechanisms

The Remedy Ecosystem



Key takeaways from B-Tech foundational papers on remedy (1/2)

- All types of mechanisms (state-based and non-state based) are relevant in the tech space
- Remedies for adverse impact from tech can potentially take many different forms.
- Different types of remediation mechanisms have their own distinctive contributions to make.
- **Few remediation mechanisms have the power or ability to deliver the full range of remedies that are recognised by international law – need for holistic “eco-system” approach**
- **Remedies needs to be effective – depends on the circumstances of affective people and groups themselves.**
- **The UN Guiding Principle “effectiveness criteria” provide a framework for companies and other decision-makers to assess the “effectiveness of a range of remediation processes.”**

Key takeaways from B-Tech foundational papers on remedy (2/2)

How to undertake “meaningful consultation” with potentially affected individuals and groups when the numbers are in the millions, if not billions?

How to respond to actual or potential harm can spread imminently and be transboundary nature?

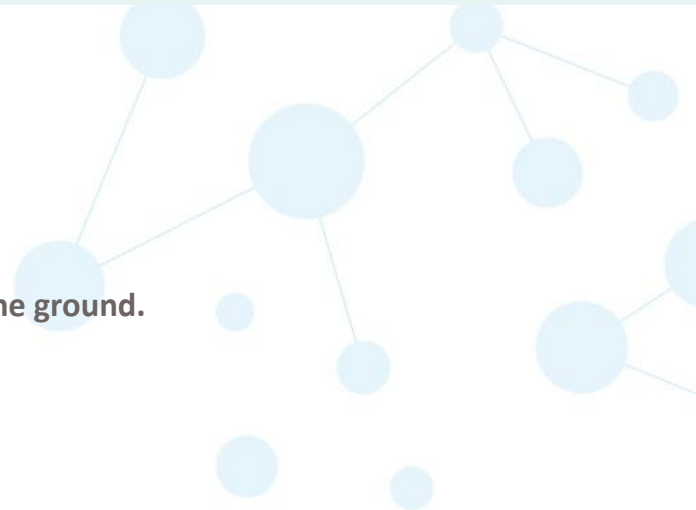
Key
Challenges

Designing and Implementing Grievance Mechanisms

- **Understanding which human rights risks are relevant**
- **Assessing what is already there**
- **Assessing what is needed**
 - **Where do we fit into the new remedy ecosystem?**
 - **Where and how can we have impact?**
 - **“Remedy-providers” and “remedy enablers”**

Meaningful stakeholder engagement for tech companies

- What does this mean?
- Why is it important?
 - To make sure people can use the mechanisms provided
 - To identify and address key barriers to access
 - So that they can be an empowering experience for people
 - To help identify actions and outcomes that will make a difference on the ground.
- Challenges
 - Identifying affected stakeholders
 - Scope, scale, and unpredictability of potential impacts
 - Lack of awareness of rights and how they might be impacted
 - Complexity (e.g., regulatory, technological, etc.)
 - Language barriers; low level of literacy (including digital literacy)
 - Keeping people safe.
- Possible solutions (for discussion)



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Accountability & Remedy – *company perspectives*

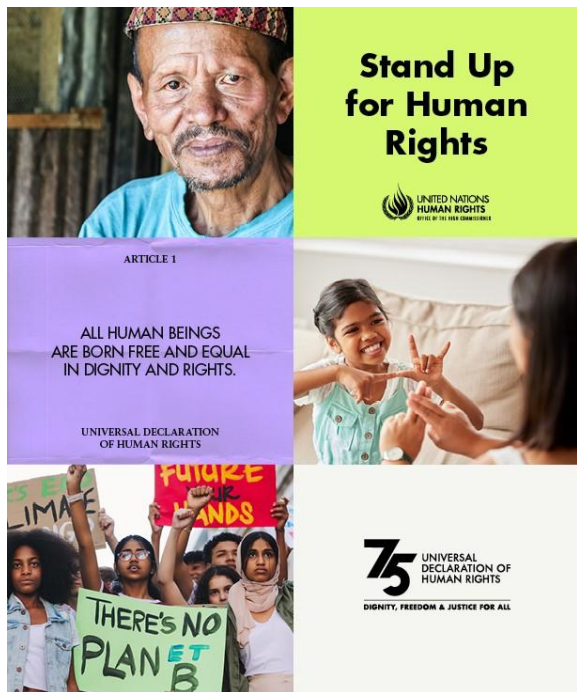
- Mentimeter poll:
how evolved are your company's remedy processes?
- Thoughts from a B-Tech Community of Practice participant

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HR75 (Human Rights 75)



THROUGHOUT THE YEAR:

Monthly thematic spotlights

Each month in 2023 will shine a spotlight on one critical theme spanning a range of economic, social, cultural, civil and political rights as a concrete way to implement different aspects of the Declaration. We call for concrete action by States and others. In January, the High Commissioner launched a call for the release of persons arbitrarily detained, and in February he called for the transformation of care and support systems. Actions resulting from these spotlights can inform pledges to feed the high-level December event. The BHR Spotlight is in *October*.

Pledges for Human Rights

A key outcome of the Human Rights 75 initiative is to ensure pledges for human rights - or commitments for concrete change – from governments and other actors. The pledges received will be made public during the December 2023 high-level event. Guidance on developing pledges is now [available](#) online, as is the [submission form](#).

HR75 (Human Rights 75)

PHASE 2: HIGH-LEVEL EVENT - 11-12 December 2023

This event will mark the culmination of the year of impact-driven work around the 75th anniversary of the Universal Declaration of Human Rights.

Objective: Contribute to change and concrete progress on the ground on the promise of freedom, equality and justice and accountability for those commitments.

The Human Rights 75 – High Level event will:

- (1) lead to concrete change and progress through a **pledging event**;
- (2) lead to a **vision for Human Rights** for the next 25 years;
- (3) reinvigorate commitment to human rights by highlighting the 75 years of achievements, as well as the work done this year; and
- (4) feed into the 2024 **Summit of the Future**.



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PEER LEARNING PLATFORM (PLP)

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