UN Human Rights B-Tech Project
Peer Learning Platform: Session #6

Stakeholder Engagement and the Technology Sector
8 November 2023

Welcome to the Sixth 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.
  - Antitrust 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.

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Part One: Stakeholders' role under the UNGPs

Part Two: Stakeholder Engagement – *practitioner perspectives*

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 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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Who are "Stakeholders"?

Any individual or organization that may affect, or be affected by, a company's actions and decisions

Actual and *Potentially Affected* Stakeholders may include:

- **Users and customers -** *in tech products/services there may be thousands or millions of adversely impacted rights holders*

- **Employees and contractors** *- internal and external/ through suppliers or third-party sales channels and vendors*

- **Communities -** *external groups, including children and vulnerable individuals, who are indirectly impacted through business activities, organizations who represent them*

- **Government, regulators, investors**

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Stakeholders in the UNGPs

- Guiding Principle 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.

- Meaningful **Stakeholder Engagement** is therefore a key component of the due diligence process, to take place throughout the lifecycle of tech: from development to application/use.

Stakeholder Engagement in Current/Upcoming Legislation

EU Digital Services Act

Stakeholder engagement is not mentioned in the text itself, but the Recital mentions the necessity of engagement only "where appropriate."

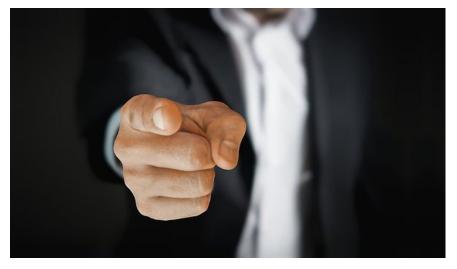**EC's Corporate Sustainability Due Diligence Directive (CS3D)**

Consultation with potentially affected groups including workers and other stakeholders is required only "where relevant."

EU AI Act (draft)

Stakeholder engagement is not mentioned in the text itself but in the Recital it is encouraged "on a voluntary basis."

Company: Stakeholder Engagement

CSOs and HRDs' style of communication is often "fraught," "combative," and "rarely effective"

How can we improve the state of communication between tech companies and civil society organizations?

Can the movement between civil society & industry create a space for constructive dialogue?

B-Tech Stakeholder Engagement paper (2023)

Key Takeaways: B-Tech Stakeholder Engagement Paper

**We made recommendations for five practices for tech companies
to improve stakeholder engagement:**

- Engage external stakeholders across all aspects of Human Rights Due Diligence and Remedy

- "Close the Feedback Loop" with stakeholders

    - Communicate the impact of this feedback - explain what actually happened, what changes were made due to stakeholder input, what ideas were sparked from the input.

- Establish and nurture relationships, not transactions

    - Building long-term relationships with affected people, stakeholders, etc

- Collaborate to engage voices from the Global Majority

- Provide resources for stakeholders to engage meaningfully with companies' HRDD

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ECNL Framework for Meaningful Engagement

"Moving from Empty Buzzwords
to Real Empowerment"

1. What makes engagement 'meaningful'?

2. What does a trustworthy engagement

process look like?

3. How to distinguish the meaningful from
the meaningless?

https://ecnl.org/publications/framework-meaningful-engagement-human-rights-impact-assessments-ai

Engagement must be considered meaningful by both the convening organisation and those participating. This starts with defining a Shared Purpose – one which goes beyond the pure self-interest of the convening body and encompasses the specific interests of affected stakeholders or an overall public interest.

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GPD/GNI: Engaging Tech Companies on Human Rights,
a How-To Guide for Civil Society

- Searching key terms on LinkedIn
- Looking at agendas from large digital rights conferences such as RightsCon or the Internet Governance Forum
- Reaching out to other civil society organizations and allies
- Searching for news articles that discuss relevant topics and quote company personnel

c. Approach the company with a constructive message/request

Once you have researched the company and have found the person best suited to hear your concerns, it is time to approach the company. To help ensure a response when reaching out to tech companies, make sure your message is constructive and collaborative. While criticism might be justified, it may not be the best way to elicit feedback and generate a relationship. An ask like: **"I see in X policy that you're committed to X. While I applaud this commitment, I have concerns about and would like to discuss how this is working in practice in Y country/ context"…"** can demonstrate that you're interested in the issue, have done your homework, have something to contribute, and are willing to work together to achieve results.

Something else to keep in mind is how you frame your communication style to tech companies. You may want to use terms and focus on examples that would be familiar to corporate audiences and steer away from legalistic language, abstract principles and human rights jargon.

d. Focus on small wins initially that could lead to others

At the beginning, it may be helpful to focus on momentum rather than pressure. Make sure to give tech companies a date to respond to your request, and tell them if you are contacting their competitors, as they are also competitive among themselves even on human rights matters. Ultimately, if they are not responding with the level of urgency or the key change you are looking for, then you will be all the more justified in criticizing them publicly.

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BHRRC Report: Dismantling the Facade

In addition to noting that lack of trust and superficiality are overarching issues, the BHRRC report on Global South CSOs' difficulty in engaging with tech companies categorizes challenges under five main groups:

1. opaque business practices

2. inaccessible company structures

3. limited capacity

4. lack of whistleblower protection

5. discriminatory practices

6. lack of true commitment

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Tech company opportunities
UN Human Rights B-Tech Project 2023

- **12th Annual Forum on Business and Human Rights: Geneva, 27-29 November 2023**

  - *"TOWARDS EFFECTIVE CHANGE IN IMPLEMENTING OBLIGATIONS, RESPONSIBILITIES AND REMEDIES"*

  - **B-Tech panel, November 28th: "**Applying the UNGPs Lens to Managing Human Rights Risks from Generative AI**"**

- **Six Peer Learning Platform Sessions in 2023:**

  - **PLP Session #1**: Introduction to the B-Tech Project and to the UNGPs *(Summary note)*

  - **PLP Session #2**: Human Rights Due Diligence in End Use, Regulation and the DSA *(Summary note)*

  - **PLP Session #3**: Addressing Human Rights Risks in Business Models, Investor Responsibility to Respect Human Rights *(Summary note)*

  - **PLP Session #4**: Regulation and the Smart-Mix Concept, UNGPs Compass *(Summary note)*

  - **PLP Session #5**: Access to Remedy *(Summary note)*

  - PLP Session #6: Stakeholder Engagement

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Thank you

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