



Addressing Human Rights Risks in Technology Company Business Models

A UN Human Rights B-Tech meeting in collaboration with the Carr Center for Human Rights Policy
Harvard University, Kennedy School of Government, Taubman 102 Building, WAAP Cason conference Room

24 February 2020, 09:00 to 17:00

Introduction

On 24th February 2020 the UN Human Rights B-Tech project will co-convene a small expert meeting on *Addressing human rights risks in business models*, the first of its four focus areas set out in the [project's scoping paper](#). The meeting is being held in collaboration with the Carr Center for Human Rights Policy at the Kennedy School of Government at Harvard University.

The meeting will feed directly into the drafting of a foundational paper for the business models focus area of the B-tech project. The foundational paper will serve to guide the parameters for prospective work products and stakeholder engagement. As demonstrated below, the agenda has been designed to discuss, critique and refine a series of propositions that reflect the B-Tech project team's early thinking. With these propositions in mind, participants will be invited to:

- Share their expertise and perspectives about the human rights risks in business models across the technology industry;
- Discuss the ways in which the [UN Guiding Principles on Business and Human Rights](#) (UNGPs) offer a basis to develop practical ways forward for articulating how companies should address business model-related human rights risks;
- Identify specific contributions that the B-Tech project should make to companies and stakeholders seeking to address human rights risks in business models.

The meeting is being held under the Chatham House Rule (the information shared may be used, unless requested as off the record, and the names of the participants and organizations attending will not be revealed).

Background

UN Human Rights (The Office of the United Nations High Commissioner for Human Rights) is the leading UN entity on human rights and has a mandate to promote the UN Guiding Principles on Business and Human Rights (UNGPs). In 2019, it launched the **Business and Human Rights in Technology Project ("B-Tech Project")** to provide an authoritative and broadly accepted roadmap for applying the *UN Guiding Principles on Business and Human Rights* (UNGPs) to the development and use of digital technologies.

The **Carr Center for Human Rights Policy** is the hub of the Harvard Kennedy School's research, teaching, and training in the human rights domain. The Center has a dual mission: to educate students and the next generation of leaders from around the world in human rights policy and practice; and to convene and provide policy-relevant knowledge to international organizations, governments, policy makers, and business. The Center is focusing on three research projects, one of which being the **"Technology and Human Rights" research project** which will examine how technological

advances over the next several decades will affect the future of human rights, as well as the protections provided by the human rights framework.

Agenda

09:00 Arrivals and Refreshments

09:30 Welcome, Introductions and Meeting Objectives

The meeting will start with a short introduction to the UN Human Rights B-Tech project including the background of the normative reference point for the project, the *UN Guiding Principles on Business and Human Rights* (UNGPs). Participants will be invited to share their own work and focus in relation to responsible business, business and human rights, and technology. We will then ensure alignment on the goals and principles for the meeting.

10:00 Proposition One: Business models matter if we want to address how digital technologies present risks to human rights, particularly for the most vulnerable.

The business model of any company sets the tone for how that company operates, including how resources are allocated, how incentives are structured and how decisions get made on a day-to-day business in the board room and throughout the organization. Aspects of business models – including a company’s value proposition, target customers, competitive strategy, revenue model or resources required to deliver value - can also lead to business practices that put human rights at risk. A now widely appreciated example is how so-called “fast fashion” has led to the embedding of retailer and brand purchasing practices that undermine the ability of apparel factories to respect even the most basic labor rights of workers.

The logic of a company’s business model is a powerful force that can impact business decisions and the

integration of responsible practice (including business’ respect for human rights). This is equally true in the case of technology companies, ranging from start-ups to “big tech,” even where technological innovation is intended to support aspirational social change or solve specific societal challenges. This reality is the focus of critiques such as [*Surveillance Capitalism* by Shoshana Zuboff](#), and of [*Amnesty International’s recent report Surveillance Giants: How The Business Model Of Google And Facebook Threatens Human Rights*](#).

In this session, participants will be invited to share their reflections regarding the proposition. The project team is especially interested in:

- How to build a stronger appreciation and insight among the public policy and human rights community for both: a) what we mean by “business models and b) how business models impact company priorities, resource allocation and practices;
- Reflections on different types of business models in the technology industry, including models that may carry minimal human rights risks;
- Perspectives and experiences that run contrary to the proposition.

11:15 Break

11:30 Proposition Two: The UNGPs offer unique value to the question of setting expectations of technology companies with regards to addressing human rights risks related to their business models.

A central premise of the UNGPs is that companies should avoid infringing on the human rights of others and should address adverse human rights impacts with which they could become, or are, involved. The focus is on the way companies may harm people in the course of doing business, not what they do in the non-commercial periphery to contribute to societal good (e.g. via philanthropy).

In order to prevent harm to people, companies are expected to embed human rights due diligence, i.e. to identify, assess, and address risks to people within relevant business processes and functions such as human resources, legal, procurement, marketing, business development, operations, and community engagement. Companies are also expected to track the effectiveness of their efforts and communicate with stakeholders about this including via formal reporting. The UNGPs further state, among other things, that:

- A company's commitment to respect human rights should "*be embedded from the top of the business enterprise through all its functions, which otherwise may act without awareness or regard for human rights.*" (*Commentary to Principle 16*);
- That "*business enterprises need to strive for coherence between their responsibility to respect human rights and policies and procedures that govern their wider business activities and relationships. This should include, for example, policies and procedures that set financial and other performance incentives for personnel; procurement practices; and lobbying activities where human rights are at stake*" (*Commentary to Principle 16*);
- Human rights due diligence should take place on an early and ongoing basis including "*prior to a new activity or relationship; prior to major decisions or changes in the operation (e.g. market entry, product launch, policy change, or wider changes to the business).*" (*Commentary to Principle 20*).

The idea is that respect for human rights becomes part of the DNA of doing business and that *all business practices* that carry risks to human rights should be subject to ongoing and regular human rights due diligence. This suggests that the UNGPs are a compelling starting point for articulating expectations of technology companies to address human rights risks related to their business models. Furthermore, they arguably offer a path forward towards pinpointing actionable and meaningful corporate conduct that could be regulated – with wholesale, broad-based and sometimes blunt regulatory solutions as a secondary step where necessary.

In this session, participants will be invited to share their own reflections regarding the proposition. The project team is especially interested to hear about:

- Examples in which companies are de facto addressing risks to business practices that flow from business models (within the technology sector and beyond, and whether rationalized or not with reference to the UNGPs);
- The challenges that business practitioners and civil society face in ensuring companies implement human rights due diligence to practices that are connected to the commercial success of the company;
- What would make specific prevention and mitigation requirements that fall short of calls for broader regulatory proposals (such as breaking up big tech) credible and move beyond "tweaking at the edges";
- What are the limitations of the UNGPs when addressing frontier technologies and emerging tech business models.

12:30

Lunch

13:30

Proposition Three: It is possible to demystify and name aspects of tech industry business models that lead to practices that carry inherent risks to human rights, and then build multi-stakeholder

alignment about the specific company actions that, if pursued, would amount to effective human rights due diligence.

In the immediate future, the intent of the B-Tech project team is to test the feasibility of developing a typology of diverse characteristics of business models across the technology sector that require attention – from all stakeholders – due to the human rights risks they carry. By way of *illustration only*, examples to be explored in this process include business models that;

- Depend on certain modes of data collection such as those set out by Article 35 of GDPR e.g.
 - o “*Systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person*”; or
 - o “*Systematic monitoring of a publicly accessible area on a large scale*”.
- Require sustained attention and click-throughs by users in order to generate revenues;
- Have no near-term revenue models built into them but instead prioritize gathering what Shoshana Zuboff refers to as “behavioral surplus”, or bets on “behavioural futures”;
- Where State agencies responsible for the protection and realization of citizen’s human rights are the primary customers;
- Apps and websites use notice and consent forms in their license agreements to collect and sell invasive data unbeknownst to consumers who are communicating with friends, family, and colleagues.

As this work progresses it will be especially important to take into account that the “technology industry” is broad and varied, and to recognize that one corporate entity may have multiple businesses and business models operating in parallel.

The early B-Tech research and consultations have surfaced a small number of organizations that are developing ideas for how to focus senior business leaders (within and beyond the tech industry) on addressing human rights risks associated with business models. Of particular interest is that these efforts also aspire to equip investors, civil society and regulators with the know-how to incentivize and hold companies accountable for doing so. This session will provide an opportunity for participants to hear about some of these early innovations as a way to provoke ideas about eventual B-Tech outcomes and resources. These examples include [Ranking Digital Rights draft indicators for targeted advertising](#) and [Shift's red flags for business models](#).

14:45

Break

15:15

Proposition Four: There are unique characteristics to today’s technologies and tech industry business models that the B-Tech project will have to address in order to provide actionable recommendations and practical tools for companies.

The systems that underpin the tech sector presents unique challenges that the B-Tech project needs to take into account. The technical design, development, and deployment of global digital networks, data analytics, algorithmic models, and machine learning (artificial intelligence) may present fundamental challenges to the ability of companies to address human rights risks related to business models. These systems are sociotechnical in that the technologies themselves can shape, and are shaped by, commercial imperatives, social norms and laws. As such, a holistic approach is needed to ensure human rights are protected and respected.

With regards to business models it seems important to identify issues, practices, or themes that may impair, even the companies most committed to addressing human rights risks related to business models. For example:

- Tracking technologies, from website cookies to facial recognition, collect and process massive amounts of personal and physical data to identify people and predict human behavior, which present inherent risks to privacy, freedom of assembly, non-discrimination, and a host of related rights;
- The prevalent focus on product human rights impact assessments (often too late in the development process of products) versus organizationally embedded human rights due diligence;
- “Innovation” often means experimenting with unproven technologies “in the wild” on unsuspecting people, which disproportionately impacts vulnerable and marginalized individuals and groups;
- Today’s “black box” technologies can be incomprehensible even to the engineers who design them, which challenges calls for transparency and accountability.

16:30 Reflections and Looking Ahead

17:00 Close. Move to talk by Shoshana Zuboff, author of *Surveillance Capitalism*, followed by a private dinner
