

# Designing and implementing effective company-based grievance mechanisms

## A B-Tech Foundational Paper



### OVERVIEW

The UN Guiding Principles on Business and Human Rights (UNGPs) offer guidance to companies about when and how they should take steps to remedy harms with which they may be involved. For technology companies, this can include situations in which harms are in some way connected to the use of their products or services—whether by customers, governments, or individuals.<sup>1</sup> **Participating in, cooperating with, and supporting the various judicial and non-judicial processes which may be relevant in the circumstances are critical aspects of meeting the “corporate responsibility to respect” human rights.**

Establishing company-based grievance mechanisms is an important way in which technology companies can play their part in delivering remedies to people and communities adversely affected by technology products and services. This follows the principle that companies should be accountable when their business activities lead to harms. In many cases, **proactive and empathetic efforts by companies to recognise and directly respond to human rights-related grievances will be the quickest and most efficient route to an effective remedy.**

This is also pragmatic because timely intervention can help to resolve grievances before they escalate into serious human rights issues that can present serious reputational, financial and legal risks. In addition, company-led efforts to enhance access to remedy, including through company-based grievance mechanisms, can provide technology companies with **valuable insights into how they can work towards a new era of humane and socially responsible technology, with technology infrastructure, business models, policies and practices that are fully aligned with the best interests of people, societies, and humanity.**

---

<sup>1</sup> See further B-Tech foundational paper '[Taking action to address human rights risks related to end-use](#)'. See also B-Tech foundational paper '[Access to remedy and the technology sector: basic concepts and principles](#)' (esp. “FIVE”).

## ABOUT THIS PAPER

The paper is part of the UN Human Rights [B-Tech Project](#) foundational paper series. The B-Tech Project foundational papers have been developed to launch and frame subsequent B-Tech Project activities involving diverse stakeholders as part of a global process to produce guidance, tools and practical recommendations to advance implementation of the [UN Guiding Principles on business and Human Rights](#) in the technology sector.

This paper focuses on the third pillar of the UNGPs: **the need for there to be effective remedies for business-related human rights harms**. It is designed to provide an introduction to the role, scope and design of company-based grievance mechanisms in ensuring effective remedy for victims.

This paper should be read in conjunction with the other foundational papers in this B-Tech series, in particular [The UN Guiding Principles in the Age of Technology](#), and the following three additional papers focused on “access to remedy”:

- [Access to remedy and the technology sector: basic concepts and principles](#);
- [Access to remedy and the technology sector: a “remedy ecosystem” approach](#); and
- [Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#).

*The aim of this series of foundational papers on access to remedy is not to provide a detailed “how to” guide for all situations; rather to provide an overview of the broad legal, structural and policy background—and the key concepts and frameworks relevant to access to remedy in the technology sector—as a solid foundation for future, more context-specific discussions and work.*



## HEADLINES

1. Taking a proactive role in remedying harms, including via company-based grievance mechanisms, is part of operating responsibly.
2. The scope of company-based grievance mechanisms and processes should reflect the broad range of human rights that a company may adversely impact.
3. The UNGPs provide a set of “effectiveness criteria” that companies should use to guide the design and implementation of grievance mechanisms.
4. In designing and implementing company-based grievance mechanisms, and in all forms of outreach related to these mechanisms, technology companies should be sure to adopt a “human-centred” approach.
5. Understanding how company-based grievance mechanisms fit into wider “remedy ecosystems” can highlight ways of enhancing their effectiveness and impact. This includes exploring collaborative approaches to remedy that can improve efficiencies and benefit rights-holders.

## Taking a proactive role in remedying harms, including via company-based grievance mechanisms, is part of operating responsibly.

Business respect for human rights includes acting on situations where a company's activities, products or services are involved in human rights harms.<sup>2</sup> **Having policies and processes to enable the remediation of any adverse human rights impacts a company may have caused or contributed to is a key part of meeting the corporate responsibility to respect human rights**, as set out in the UNGPs.<sup>3</sup>

The UNGPs draw attention to the potential **benefits of grievance mechanisms** operated by private actors, including companies and multi-stakeholder initiatives. These benefits can include **"speed of access and remediation, reduced costs and/or transnational reach"**.<sup>4</sup> Further, companies are expected to "establish or participate in effective operational-level grievance mechanisms,"<sup>5</sup> accessible by affected individuals and communities, to enable early and direct resolution of grievances arising from any adverse human rights impacts.

Company-based grievance mechanisms have particular value as an **"early warning system"** with respect to the human rights implications of a company's business activities. They also provide a source of information which can be used to analyse trends and the effectiveness of corporate responses to human rights risks<sup>6</sup> and thus have **an important role to play in human rights due diligence**.<sup>7</sup>



### EXPLAINER BOX 1

#### What kinds of "company-based grievance mechanisms" do technology companies commonly use for addressing human rights related grievances?

There are many types of mechanisms operated by technology companies that are relevant to business respect for human rights and which therefore could come within the definition of "company-based grievance mechanisms" used in this foundational paper. It is important to note that these mechanisms may not have been created specifically to be human rights grievance mechanisms per se. They may have been mandated by, or established in

<sup>2</sup> See further B-Tech foundational paper '[Taking action to address human rights risks related to end-use](#)'.

<sup>3</sup> Guiding Principle 15. See further B-Tech foundational papers '[Key Characteristics of the Business Respect for Human Rights](#)' and '[Access to remedy and the technology sector: basic concepts and principles](#)'.

<sup>4</sup> Guiding Principle 28, Commentary.

<sup>5</sup> See further B-Tech foundational paper '[Access to remedy and the technology sector: basic concepts and principles](#)' (esp. "SIX").

<sup>6</sup> Guiding Principle 29, Commentary.

<sup>7</sup> See further B-Tech foundational paper '[Key Characteristics of Business Respect for Human Rights](#)'. The UNGPs draw attention to the particular value of effective operational level grievance mechanisms as 'a source of continuous learning' for companies about human rights issues and risks, and appropriate ways to address them. See Guiding Principle 31 (g). See further ARP III report, A/HRC/44/32, Annex, 13.2(b).

response to, regulatory requirements. However, for the purposes of this discussion, the reasons for their establishment are less important than the purposes they serve.

Company-based grievance mechanisms potentially coming within the scope of the discussion in this paper include employment-related grievance mechanisms, general compliance “hotlines”, consumer or user complaints processes, terms of service enforcement processes, intellectual property-related processes, disability tech support services, systems for handling privacy related issues and queries (such as “right to be forgotten” processes), systems for monitoring and enforcing community conduct standards (including content moderation for digital and internet companies) and responsible sourcing alert systems.

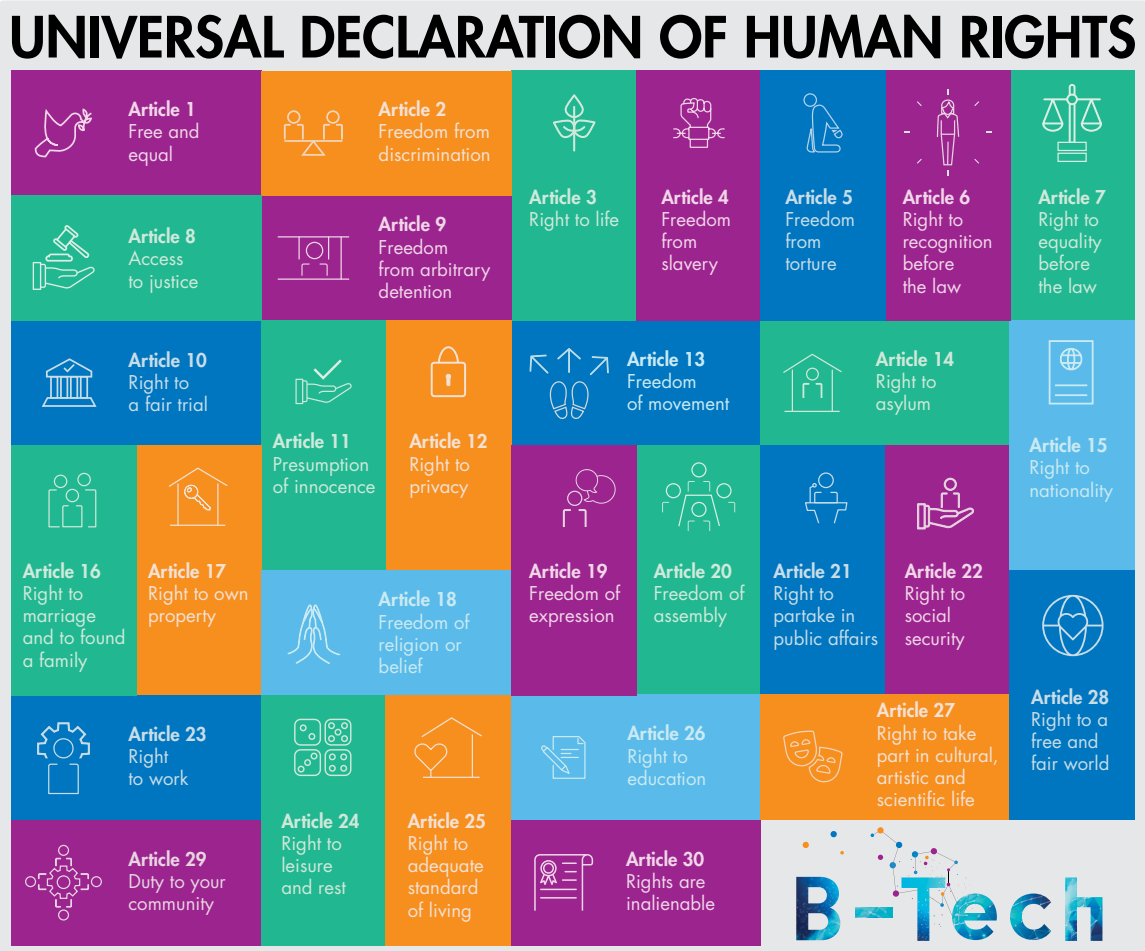
There are a range of company-based grievance mechanisms that may be deployed by technology companies to remedy human rights harms (see Box 1 above). Clearly, **the structures and systems chosen will vary depending on context and need**. Thus, a telecommunications company (i.e. which has a contractual relationship with users of services and which is likely to be subject to detailed regulatory requirements as regards customer service standards), may need to put in place quite different arrangements for handling grievances than the operator of a social media platform with potentially global reach. In the latter case, the mechanisms and processes are likely to be shaped by a quite different set of operational and human rights imperatives, such as the need to operate at speed and scale in relation to a wide range of potential impacts that may be difficult to identify in advance.

## TWO

### **The scope of company-based grievance mechanisms and processes should reflect the broad range of human rights that a company may adversely impact.**

While the UNGPs are not prescriptive about the structures that should be used and the issues that should be covered by company-based grievance mechanisms, the overarching expectation, as laid down in the UNGPs, is that each enterprise will have put in place “processes to enable the remediation of *any* adverse human rights impacts they cause or to which they contribute”.<sup>8</sup>

<sup>8</sup> Guiding Principle 15(c), emphasis added.



**In many settings, highly-specialised grievance mechanisms will have a valuable contribution to make, as part of a wider corporate strategy to address human rights-related risks. However, putting in place a set of company-based grievance mechanisms that only respond to a narrow range of human rights issues (such as privacy or data protection) and fail to take account of broader issues (such as the role of some digital technologies in exacerbating discrimination and inequality, or in contributing to situations in which certain groups within society may be in danger of physical harm) are unlikely to be sufficient to meet the remediation aspects of the corporate responsibility to respect.**

Technology companies need to be alert to the possibility that the range of people whose human rights might be adversely impacted by their business activities may not be confined to their own customers or users of their platforms or services. This could be the case, for instance, where technology is developed for a particular customer which is then deployed in a way that adversely impacts on the human rights of members of the general public (e.g. facial recognition technologies used by law enforcement agencies); or where a person's personal data has been processed without their knowledge or consent (e.g. uploading of photos of a person onto a social media platform), or where disinformation about person or a group is spread by others through social media.

It is vitally important that corporate strategies relating to remedying human rights-related harms, taken together, respond robustly to the array of human rights impacts with which the company could be involved—within the technology company’s known customer and user base *and beyond*.<sup>9</sup> Particular attention should be given to the most “salient” human rights issues raised by the technology company’s business activities.<sup>10</sup>

## THREE

The UNGPs provide a set of “effectiveness criteria” that companies should use to guide the design and implementation of grievance mechanisms.

The UNGPs provide a valuable and authoritative framework for understanding and assessing the effectiveness of all kinds of “non-judicial” grievance mechanisms, including the examples of company-based mechanisms itemised above.

The eight “effectiveness” criteria set out in Guiding Principle 31 (see Box below) are applicable to all companies and all sectors.<sup>11</sup>

### Effectiveness criteria for non-judicial grievance mechanisms

**31. In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:**

**(a) Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;

**(b) Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;

**(c) Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;

**(d) Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;

<sup>9</sup> See further B-Tech foundational paper ‘[Key Characteristics of Business Respect for Human Rights](#)’, especially the discussion on human rights due diligence under headlines “FOUR” and “FIVE”.

<sup>10</sup> See OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretative Guide*, (United Nations, 2012), p. 8

<sup>11</sup> See further B-Tech foundational paper ‘[Access to remedy and the technology sector: basic concepts and principles](#)’ (esp. “SEVEN”).

**(e) Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;

**(f) Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights;

**(g) A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms

#### **Operational-level mechanisms should also be**

**(h) Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

#### **UN Guiding Principles on Business and Human Rights, Guiding Principle 31.**

**These criteria are deliberately flexible.** Identifying the best ways of implementing them within specific sectors, legal frameworks and corporate structures is a matter for company management. **Additional sector-specific guidance and advice, which may have been made available by government, industry associations or interested civil society organisations, should be carefully consulted.**

#### **Did you know...**

Supplementary UN Human Rights guidance as to the practical steps that can be taken to meet the "effectiveness criteria" for company-based grievance mechanisms can be found in a [2020 report to the Human Rights Council as part of the office's Accountability and Remedy Project](#).<sup>12</sup>

This report takes account of the growing use of new technologies in connection with privately administered grievance processes in general, for instance with respect to helping document abuse, receiving or communicating information, and case management.<sup>13</sup> The report notes the various ways in which these can

- enhance the accessibility of grievance mechanisms,
- enable more efficient grievance processes, and
- help developers and operators of mechanisms analyse trends and patterns in complaints with a view to identifying systemic problems that require addressing in order to prevent future harm.<sup>14</sup>

<sup>12</sup> See ARP III, A/HRC/44/32, esp. Annex; together with explanatory addendum, A/HRC/44/32/Add.1.

<sup>13</sup> ARP III report, A/HRC/44/32, Annex, 10.7.

<sup>14</sup> ARP III report, A/HRC/44/32, Annex, 13.2.

However, the report also draws attention to the fact that these technological enhancements to grievance processes can have limitations. For instance, they may be inappropriate in certain cases (e.g. in complex or nuanced situations where specialist, personal interaction and support is required). In some cases they can exacerbate inequalities with respect to access to remedy for those with low digital literacy levels, and may present serious risks as regards privacy, data protection and digital security.

Technology companies should take account of these issues and risks when deciding how best to deploy different technological solutions in the design and operation of company-based grievance mechanisms.<sup>15</sup>

## FOUR

### In designing and implementing company-based grievance mechanisms, and in all forms of outreach related to these mechanisms, technology companies should be sure to adopt a “human-centred” approach

Involving affected people and groups in the design (and oversight) of company-based grievance mechanisms

Ensuring that affected people and groups are aware of the existence of relevant company-based grievance mechanisms, and how they work

Ensuring that any risks to the personal safety of people who may wish to make use of mechanisms are identified and addressed

**Meaningful consultation with affected people and groups about their needs is critical to the effectiveness of company-based grievance mechanisms.** The extent to which a company has consulted meaningfully with affected people and groups is frequently one of the strongest indicators of effectiveness of company-based grievance mechanisms.<sup>16</sup>

Meaningful consultation is the most important way in which companies ensure that their grievance mechanisms:

- are **meeting the needs of those for whom they are intended**;
- are **adequately addressing the barriers to remedy** that users routinely face (e.g. **language and literacy barriers**, including the “**digital divide**”),<sup>17</sup>

<sup>15</sup> See further B-Tech foundational paper ‘[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)’.

<sup>16</sup> See ARP III report, A/HRC/44/32, paragraph 11.

<sup>17</sup> See B-Tech foundational paper ‘[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)’ (“FOUR”).



- are an **empowering experience** for users;<sup>18</sup> and
- are capable of delivering (and do in fact deliver) outcomes that make a **positive contribution in human rights terms**.<sup>19</sup>

Meaningful stakeholder consultation is also how technology companies ensure that **participatory rights** (i.e. the rights of people to participate in decision-making that affects them) are respected, and is thus fundamental to the legitimacy of the mechanism, and in gaining and retaining stakeholder trust.<sup>20</sup>



#### EXPLAINER BOX 2

### What do we mean by “meaningful consultation”?

UN Human Rights defines “meaningful consultation” in this context as **“an ongoing process of interaction and dialogue between the consulting entity and stakeholders that enables the consulting entity to hear, understand and respond to stakeholders’ interests and concerns, including through collaborative approaches”**.<sup>21</sup>

**Technology companies, and particularly those with operations in many different jurisdictions, can encounter challenges in engaging meaningfully with stakeholders in practice.** The reach of global social media platforms, for instance, is such that whole populations may potentially be affected, in a range of different ways, and potentially impacting a wide range of human rights, as a result of the decisions and policies adopted. For providers of technologies which are then used in applications and processes by others, those individuals or groups that may potentially be impacted may be difficult, if not impossible, to identify in advance. Further obstacles to effective stakeholder engagement may include, depending on the context, **geographical remoteness, language barriers, challenges relating to low literacy (or digital literacy), or concerns about the physical safety of people** who may be adversely impacted (a particular concern when working in countries with repressive regimes).<sup>22</sup>

Although **automated decision-making systems** can be essential for allowing company-based grievance mechanisms to operate at the necessary speed and scale, technology companies should be mindful, when designing mechanisms and processes, of the **limitations of these types of systems in responding to complex social issues and in capturing people’s personal experiences of harm**. Problems have been encountered, for instance, in case management systems developed for handling reports of on-line sexual harassment and abuse, which are designed in such a way that risks **reinforcing gender assumptions**, and which have used terminology that people may not necessarily identify with and which do not adequately describe the way they are personally affected. Meaningful consultation

<sup>18</sup> ARP III report, A/HRC/44/32, Annex, Policy Objective 12; explanatory addendum, A/HRC/44/32/Add.1, para. 65. See further B-Tech foundational paper ‘[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)’ (“ONE”).

<sup>19</sup> ARP III report, A/HRC/44/32, Annex, Policy Objective 12; explanatory addendum. A/HRC/44/32/Add.1, para. 66. See further B-Tech foundational paper ‘[Access to remedy and the technology sector: basic concepts and principles](#)’ (“TWO”).

<sup>20</sup> ARP III report, explanatory addendum, A/HRC/44/32/Add.1, para. 34.

<sup>21</sup> ARP III, report, explanatory addendum, A/HRC/44/32/Add.1, page 5.

<sup>22</sup> See further B-Tech Foundational Paper ‘[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)’ (“FOUR”).

with representatives of the people for whom grievance mechanisms are intended (e.g. through an **extended testing programme or a series of localised pilot exercises**), can help companies to better anticipate and respond to potential problems such as these, and to better appreciate the perspectives and needs of users of these grievance mechanisms more generally.<sup>23</sup>

While there is rarely a perfect solution to these problems, some technology companies have managed to enhance their awareness of more localised human rights risks associated with people's interaction with technologies by working with **trusted local partners**—such as civil society organisations, academic institutions, and security experts—as proxies for wider rights-holder groups. However, to maintain fairness and inclusivity in the way that stakeholder exercises are conducted, and to avoid complacency, it is important that such partnering arrangements are kept under review. Technology companies should strive for greater **transparency about their approaches towards rights-holder engagement**. In addition to the obvious benefits of helping to instil more fairness and rigour into corporate approaches, it can also help to promote greater levels of stakeholder engagement generally.



#### EXPLAINER BOX 3

### Examples of ways that technology companies can ensure that their company-based grievance mechanisms are responding well to the needs of people who may wish to make use of them

- engaging proactively with representatives of affected people and groups, such as civil society organisations, trade unions or other advocates with respect to the design, implementation and performance of the mechanisms, including the outcomes of remediation processes;
- seeking the views of relevant public bodies, including national human rights institutions;
- thorough testing of the user interface through piloting and formative studies;
- taking advantage of opportunities for peer learning through knowledge-sharing;
- asking people to complete user-feedback questionnaires at the conclusion of a grievance process;
- carrying up follow-up work with people who have used the mechanism (e.g. in a focus group format) to identify areas for improvement;
- investing in the training and recruitment needed to ensure that the company has ready access to the necessary expertise;
- investing in the databases and analytical systems needed to reveal and interpret grievance patterns (e.g. whether certain groups within society are experiencing difficulties accessing and using the grievance mechanisms, and the reasons why this might be the case).<sup>24</sup>

<sup>23</sup> See further B-Tech foundational paper '[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)'.

<sup>24</sup> See further ARP III, A/HRC/44/32, Annex, 13.1.

Involving affected people and groups in the design (and oversight) of company-based grievance mechanisms

Ensuring that affected people and groups are aware of the existence of relevant company-based grievance mechanisms, and how they work

Ensuring that any risks to the personal safety of people who may wish to make use of mechanisms are identified and addressed

**Technology companies need to work proactively to ensure that rights-holders are aware of the company-based grievance mechanisms that may be available in different situations, and how they work.** As noted in several other papers in this series, the “remedy ecosystem” for harms associated with technology products and services is a particularly challenging one for affected people and groups to navigate. The reasons for this are discussed in more detail in the B-Tech foundational paper [‘Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups’](#).

**Technology companies have an important role to play in helping people and groups who may be seeking remedies for human rights harms identify and evaluate the various options that may be open to them. Depending on the context this may involve capacity-building or educational activities** to raise awareness among potential users of mechanisms of their rights and the standards of treatment they are entitled to expect. Many companies, including technology companies, now make available a range of on-line resources—such as interactive online templates, “how to” or “what to expect” videos, chat facilities or other **online counselling services**—with a view to helping people access grievance mechanisms and related services.

On the other hand, technology companies providing services to people in multiple jurisdictions (e.g. operators of on-line platforms) can face **challenges in providing fair and consistent levels of service across a range of language areas**. Difficulties hiring sufficient content moderators able to work confidently in the many different languages used by users of platforms (or the people affected by their use) can result in a lack of balance between the resources available for moderation of content in the language routinely used at “head office” and those available to enforce rules relating to content in other languages. These problems can be exacerbated by **the inability of speakers of those other languages to access online support**, e.g., in the case of compromised social media accounts. Moreover, speakers of other languages (i.e. other than the main language used by the management of the company in question) may experience delayed grievance response times and marginalized communities and/or minorities can often struggle to be heard through these systems.

These problems may be compounded further by the use of **algorithmic decision-making systems** to assist with case management (e.g. at the stage of pre-sorting), which may not pick up the subtleties of an expression, or the context of an action. For these reasons, and to enable prospective users of company-based grievance mechanisms to be able to engage with these processes effectively and in an informed way, **it is important that technology companies are transparent about the extent to which they rely on automated or algorithmic decision-making systems within grievance processes relevant to remedying human rights harms.**<sup>25</sup>

<sup>25</sup> See further ARP III, report, explanatory addendum, A/HRC/44/32/Add.1, page 57. See also (“THREE” above).

The various local relationships and partnerships that technology companies develop for the purposes of stakeholder engagement on design, development and deployment issues may also be useful for the purposes of raising awareness of the existence and purposes of different forms of company-based grievance mechanisms. Alongside the need to ensure appropriate linguistic capabilities, many companies highlight the value of **working with people with similar educational and cultural backgrounds as potential users of mechanisms, who can readily relate to the various practical and other challenges that may be faced in navigating the remediation process.**<sup>26</sup> This can be bolstered further by cross-regional virtual meetings and trainings to educate staff how to reach out to stakeholders.

Technology companies which put in place effective outreach strategies to raise awareness about their approaches to remediation often find their efforts rewarded in the form of increased use of these types of mechanisms. **Where an upswing in rates of use of a grievance mechanism can be attributable to good outreach, it is important that this is viewed within the organisation as a sign of success (rather than of failure), as well as a positive learning opportunity.**

Involving affected people and groups in the design (and oversight) of company-based grievance mechanisms

Ensuring that affected people and groups are aware of the existence of relevant company-based grievance mechanisms, and how they work

Ensuring that any risks to the personal safety of people who may wish to make use of mechanisms are identified and addressed

**Risks to the personal safety of people who may wish to make use of company-based grievance mechanisms need to be identified and addressed.** In order for people to trust the grievance mechanisms made available by companies, and to engage with them confidently and effectively, corporate strategies are needed to ensure that risks to personal safety or well-being that may have the effect of discouraging the use of company-based grievance mechanisms are identified, properly analysed and addressed. Threats posed by the policies or behaviours of State agencies (for instance, in a conflict-affected area, or where people are living under repressive regimes) must be taken particularly seriously.

It is important for companies to be aware that it is not only the possibility of threats or intimidatory tactics against the users of mechanisms themselves that could have this effect; people are likely also to be discouraged from raising grievances by the possibility of repercussions for others, especially for family members, friends and associates. Companies also need to be alert to the possibility of retaliation against the people involved in delivering well-functioning processes and effective remedies, including advisors, out-reach personnel, care-workers, representatives of different interest groups, translators, decision-makers and administrative staff.<sup>27</sup>

<sup>26</sup> See further B-Tech foundational paper '[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)', (esp. "TWO" and "FOUR").

<sup>27</sup> ARP III report, explanatory addendum, A/HRC/44/32/Add.1, "Box 3".

The strategies needed to address risks of retaliation will be context dependent, though they could comprise suitable organizational policies (e.g. “zero tolerance” policies), case-specific risk assessment and mitigation plans, and providing advice as to steps people may take for their own personal safety.<sup>28</sup> Technology companies will want to pay particular attention to risks of reporting lines within grievance mechanisms being compromised (e.g. resulting in a breach of confidentiality). Another risk could be re-identification of people in “Big-Data” environments even after efforts to hide a complainant’s identity had been made.

These types of risks will have a bearing on how, and the extent to which, technology companies report publicly on the activities of company-based grievance mechanisms and the outcomes of processes, especially when concerns about intrusions of privacy, breaches of data protection, or surveillance form the substance of complaints. Prevailing legal standards relating to privacy and data handling will be particularly relevant, as will robust digital security tools and processes. **However, mere compliance by companies may not provide the level of protection required, especially as regards affected people or groups at heightened risk of vulnerability or marginalisation.** Meaningful consultation with affected people and groups will help to clarify the strategies for achieving the best balance between transparency and addressing risks to the personal security and well-being of individual people.<sup>29</sup> In general, though, **companies should aim for the maximum degree of transparency that is consistent with protecting rights holders and others from any risks to themselves (and particularly from retaliation).**<sup>30</sup>

## FIVE

**Understanding how company-based grievance mechanisms fit into wider “remedy ecosystems” can highlight ways of enhancing their effectiveness and impact. This includes exploring collaborative approaches to remedy that can improve efficiencies and benefit rights-holders.**

The importance of a  
“remedy ecosystem” approach

Recognising the possibilities for  
collaborative approaches

The importance of a “remedy ecosystem” approach, and the main components of the “remedy ecosystem” for the technology sector, are discussed in the B-Tech paper “Access to remedy and the technology sector: a “remedy ecosystem” approach”.<sup>31</sup>

As noted in other papers in this series, there are many factors beyond the operation of company-based grievance mechanisms themselves—e.g. the strength of legal protections for whistleblowers,

<sup>28</sup> ARP III report, explanatory addendum, A/HRC/44/32/Add.1, para. 49.

<sup>29</sup> ARP III report, explanatory addendum, A/HRC/44/32/Add.1, para. 21. See further B-Tech foundational paper ‘[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)’.

<sup>30</sup> ARP III report, explanatory addendum, A/HRC/44/32/Add.1, para. 60.

<sup>31</sup> For a better understanding of ‘remedy ecosystems’ from the perspectives of affected people and groups see further B-Tech foundational paper ‘[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)’ (“THREE”).

the robustness of legal regimes on data security, the legal rules on defamation and libel, or the preparedness of regulators and law enforcement to take action to protect people against threats or intimidation—that may have a bearing on the extent to which people can raise their grievances and defend their rights with confidence.

It is unrealistic (and also at odds with the acknowledged role of the State as the ultimate protector and guarantor of rights) to expect that company-based grievance mechanisms can unilaterally and independently deliver effective remedies (to the standards required under international law) in all cases. For example, there are situations in which company managers will need to make judgments about the appropriate balance between, for instance:

- the need for “due process checks” (e.g. in the form of reviews and appeals)<sup>32</sup> versus the need for a speedy response (e.g. in contexts where harms could rapidly develop); or
- the need for personalised responses versus the need for systems to be able to operate at scale (e.g. in contexts where many thousands of contacts may be received daily, necessitating some degree of automated decision-making and responses).

There may also be **cumulative or collective impacts** associated with the use of technologies which company-based grievance mechanisms cannot address on an individual, case-by-case basis, and **for which a regulatory response may be needed**.

The UNGPs do not call for companies to take upon themselves a comprehensive remediation role, recognising that there are cases which will necessarily require the involvement of State-based institutions to deliver an “effective” remedy.<sup>33</sup> In other words, **providing company-based grievance mechanisms is only one of several ways in which companies can work to deliver remedies to affected people and communities**, in line with the UNGPs. The responsibility of companies to “provide for or cooperate in their remediation through legitimate processes”<sup>34</sup> (i.e. when they identify that they have either caused or contributed to adverse impacts) necessarily includes cooperation with applicable State-based processes.<sup>35</sup>

To ensure user-friendliness and smooth running of their processes, and to have the best chance of making a positive impact on the remedy ecosystem for affected people and groups in human rights terms, **technology companies should design their company-based grievance mechanisms in such a way as to be appropriately responsive and relevant to the remedy ecosystem in which they are working**. In addition to taking steps to help address the risks that could arise from deficiencies in surrounding regimes, technology companies could also seek out rights-compatible ways to enhance the interoperability of company-based mechanisms and regulatory processes (e.g. by drawing users’ attention to opportunities to escalate matters from company-level mechanisms to regulatory authorities).

---

<sup>32</sup> See further B-Tech foundational paper [‘Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups’](#) (“EIGHT”).

<sup>33</sup> Guiding Principle 26, Commentary.

<sup>34</sup> Guiding Principle 22. See further B-Tech foundational paper [‘Access to remedy and the technology sector: basic concepts and principles’](#).

<sup>35</sup> For further discussion of the inter-connectedness of different corporate and State remedial mechanisms and initiatives please refer to B-Tech foundational paper [‘Access to remedy and the technology sector: a ‘remedy ecosystem’ approach’](#).

**The importance of a  
“remedy ecosystem” approach**

**Recognising the possibilities for  
collaborative approaches**

**The technology sector is complex and dynamic.** This dynamism is manifested in developments such as the convergence of devices and communications platforms and, relatedly, the significant increase in amounts of data being available. It is also evident from the growth of cloud-based computing, and the emergence of the Internet of Things leading to vast self-tracking. The increased analytical capacity provided by Big Data, Machine Learning, Artificial Intelligence, and its affordability and pervasive nature across sectors has an additional catalysing effect on the speed in which the uptake of data-driven business practices grows across organizations. All these factors, when combined with the complexity of commercial linkages between diverse organisations and actors, mean that, **in cases where human rights harms have materialised, there may be many companies which have at least an arguable role (based on the principles laid down in the UNGPs), in remedying that harm.**<sup>36</sup> In such circumstances, some form of collaborative effort between the companies concerned (with suitable safeguards to address any risks of anti-competitive behaviour) may be needed in order to deliver an effective remedy to the affected people or groups.

**Technology companies should anticipate this possibility in the way that business relationships are developed and formalised.** For instance, it should be possible to clarify within the governing terms of many types of business arrangements (e.g. a licence to use and develop technologies, or an agreement for installation of technologies and subsequent technical support) the responsibilities of each of the parties for dealing with grievances and for providing remediation to affected people and communities in the event that adverse human rights impacts associated with the technologies in question subsequently materialise. This is an important way in which technology companies can:

- set out the **basis for cooperating** in the remediation of adverse impacts that they may have caused to or contributed to;<sup>37</sup> and/or
- **enhance their “leverage”** to prevent or mitigate adverse human rights impacts directly linked to their operations, products or services by a business relationship.<sup>38</sup>

---

<sup>36</sup> See Guiding Principle 19, and Commentary, for an explanation of the consequences of these different relationships to harm under the UNGPs. For a discussion on how these concepts may be applied to the technology sector, see further B-tech foundational papers [‘Taking action to address human rights risks related to end-use’](#) and [‘Access to remedy and the technology sector: basic concepts and principles’](#) (“FIVE”).

<sup>37</sup> Guiding Principle 22, and Commentary. See further B-Tech foundational paper [‘Access to remedy and the technology sector: basic concepts and principles’](#) (“FIVE”).

<sup>38</sup> Guiding Principle 19, Commentary. See also UNGP 22, Commentary. ‘Where adverse impacts have occurred that the business enterprise has not caused or contributed to but which are directly linked to its operations products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so’.

In some cases, technology companies may find it advantageous, in terms of making a positive contribution to human rights, to **outsource aspects of grievance handling to external bodies**, such as multi-stakeholder initiatives or independent complaints handlers. The benefits of building in an **independent layer of scrutiny** (e.g. through external review or appeal processes), in terms of improving performance and enhancing stakeholder trust, are increasingly recognised by business organisations, including in the technology sector.<sup>39</sup> For smaller and medium-sized enterprises, in particular, there may be potential benefits of **pooling resources with other companies**, perhaps through sector-level initiatives, in order to better deliver services to those who might seek to access company-based grievance mechanisms and to **share “good practice” lessons**.<sup>40</sup>

 [b-techproject@ohchr.org](mailto:b-techproject@ohchr.org)

**UN Human Rights invites engagement from all stakeholders across all focus areas of the B-Tech Project.** For more information please see the project [Scoping Paper](#). Please contact us if you would like to engage with our work, including if you have recommendations for practical tools, case studies and guidance that will advance company, investor and State implementation of the *UN Guiding Principles on Business and Human Rights* in the business of technology.



January 2021

<sup>39</sup> See B-Tech foundational paper '[Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups](#)' ("EIGHT").

<sup>40</sup> See further ARP III report, A/HRC/44/32, Annex, Policy Objectives 15 and 16.