Access to remedy and the technology sector: basic concepts and principles

A B-Tech Foundational Paper

OVERVIEW

The *UN Guiding Principles on Business and Human Rights* (UNGPs) offer a **roadmap for delivering remedy to victims of business-related human rights harms**, including the harms that may arise from the way we develop, implement and make use of technology products and services. The UNGPs carry the legitimacy and strength of being **the global framework for corporate responsibility and accountability for business-related human harms**.

New digital technologies such as cloud computing, Internet of Things devices and artificial intelligence tools can have positive social, economic and development effects. However, the use of technologies by companies, State agencies, consumers and the wider public can also change people's lives for the worse, sometimes in severe and irreparable ways. Disclosures of personal information, dissemination of hate speech, undermining of democratic processes and "algorithmic discrimination" can all negatively affect the ability of people to enjoy their human rights. **Concerted action is needed from all actors in society—public and private—to address these challenges**. Leadership and innovation is required from influential actors in this sector—and governments and technology companies in particular—to ensure that technology works for all, with particular focus on the needs of those at greatest risk of vulnerability and marginalisation within societies.

The UNGPs provide a **pragmatic and compelling framework for delivering effective remedies for human rights harm to affected people and communities**. Among other things, they:

- Explain the **distinct but complementary roles of different kinds of actors** (public and private, including companies) in providing remedy, regardless of whether or not harms are intended;
- Set out the **different forms that effective remedies can take.** These concepts come from international human rights law and prioritize the importance of **understanding and taking proper account of the needs and perspectives of affected people and groups** in deciding what kind of remedy is needed in different situations;
- Reinforce the **foundational role that judicial systems** play within a "remedy ecosystem";[1]

[1] See further B-Tech foundational paper 'Access to remedy and the technology sector: a "remedy ecosystem" approach'.

- Offer a practical set of **"effectiveness criteria" to guide the design, evaluation and improvement of non-judicial approaches** to remedy, including those managed by the private sector; and
- Focus on the need for the applicable "remedy ecosystem" to respond to **all types of human rights risks** posed by business activities, versus a narrow set of issues such as freedom of expression or privacy. This is particularly critical in light of the often-unpredictable nature of how products and services are used.

Establishing a robust and comprehensive system of remedies for human rights harms will require the same focus, determination, investment and ingenuity that drive technological innovation today. Responsible technology companies recognise both the **commercial and ethical urgency** of this task. Not only does the non-availability of remedies risk **undermining their social license to operate** (which can have significant commercial and legal consequences, both in the short and long term), it is **the right thing to do**. Placing human rights imperatives at the heart of remediation mechanisms, processes and strategies is a vital part of working towards **a future in which technologies are better aligned with principles and values that allow all human beings to thrive**.

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 key concepts and principles that govern access to remedy for the human rights harms that may be associated with technology products and services.

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: a "remedy ecosystem" approach;*
- *Designing and implementing effective company-based grievance mechanisms; 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.

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HEADLINES

1. The UNGPs offer States, technology companies, investors and advocacy organizations a robust and credible framework for remedying human rights harms resulting from the use of technologies. They are grounded in the right to an effective remedy which is enshrined in international human rights law.

2. Remedies for the adverse human rights impacts of the business activities of technology companies can potentially take many different forms, and different types of remediation mechanisms have their own distinctive contributions to make.

3. For remedies to meet international standards they must be effective. There are various tests for "effectiveness"; however the best judges of whether a remedy is actually effective in the circumstances are the affected people and groups themselves.

4. Beyond setting and enforcing legal standards, State agencies can enhance access to remedy in a range of different ways, for instance through education, awareness-raising, capacity-building and other forms of support for affected people, as part of a "smart mix" of measures to foster business respect for human rights.

5. A technology company can cause, contribute or be directly linked to human rights harms. This has implications for the action it should take to address those harms, including the extent to which a company is expected to provide for or cooperate in remediation.

6. Some human rights harms associated with the use of technology products or services may be able to be remedied directly by technology companies, for instance through operational-level grievance mechanisms. In addition to remedying harm that has already occurred, these types of mechanisms also have a key role to play in prevention of future harm.

7. The eight "effectiveness criteria" set out in Guiding Principle 31 provide a useful framework by which technology companies, legislators, policy makers, regulators and other decision-makers in the technology sector can assess the "effectiveness" of a wide range of remediation processes.

ONE

The UNGPs offer States, technology companies, investors and advocacy organizations a robust and credible framework for remedying human rights harms resulting from the use of technologies. They are grounded in the right to an effective remedy which is enshrined in international human rights law.

The right to an effective remedy for violations of human rights is enshrined in international human rights law. This right is confirmed in numerous international law instruments, including key components of the "International Bill of Rights".[2] The legal obligations of States to provide access to effective

[2] See in particular the Universal Declaration of Human Rights (Article 8) and the International Covenant on Civil and Political Rights (Article 2). See further UNGA Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UNGA resolution 60/147 of 16 December 2005).

remedies for business-related human rights harms, including human rights harms associated with the development and use of digital technologies by companies, is a key aspect of the State Duty to Protect human rights, as laid down in the UNGPs.[3]

The UNGPs explain access to an effective remedy as having both **procedural and substantive aspects**.[4] The **procedural aspects** of remedy are the steps which need to be followed in order to establish that a right to a remedy exists, and to determine the nature of the remedy that needs to be provided in order to meet international standards. The **substantive aspects** of remedy refer to the outcomes of a remedial process. The ultimate aim of a remedial process is to place the affected persons back in position they would have been had the human rights harms not occurred, although it is recognised that this is not always practically possible (see further "TWO" below). As is discussed further in "TWO" below, **financial compensation is only one of many forms that an "effective remedy" may take**, and the components of an "effective remedy", as defined under international law, are context dependent.

In other words, **providing a mechanism through which a remedy can be sought is not the same as providing a remedy itself**. Both, however, are integral to the concept of "access to remedy".

EXPLAINER BOX 1

What do we mean by "remediation mechanisms"?

The UNGPs divide mechanisms for seeking and delivering remedies for business-related human rights harms into three main types:

- "**judicial mechanisms**" (i.e. domestic courts, regional courts, regional and international human rights bodies);
- "**State-based non-judicial mechanisms**" (i.e. mechanisms connected with the State which may have the potential to deliver remedies in some shape or form, such as regulators, ombudspersons, inspectorates, public complaints handling bodies, National Contact Points under the OECD Guidelines for Multinational Enterprises and national human rights institutions); and
- "**non-State-based grievance mechanisms**" (i.e. remediation mechanisms that are developed and administered by private entities such as companies or, in some cases, industry associations or multi-stakeholder groups).

EXPLAINER BOX 2

What part can these different mechanisms play in delivering access to remedy?

The distinctive but complementary contributions made to access to remedy by different types of mechanisms—judicial and non-judicial; State-based and non-State-based—are recognised in the UNGPs.

[3] Guiding Principle 25.

[4] Guiding Principle 25, Commentary.

As the Commentary to the UNGPs notes, "States … have the duty to protect and promote the rule of law". A corollary of this is that effective judicial mechanisms (i.e. courts) are at the "core" of ensuring access to remedy.

Administrative, legislative and other non-judicial mechanisms play "an essential role in complementing and supplementing judicial mechanisms" (see "FOUR" below). Non-judicial routes to remedy can be provided by a range of public actors or by non-state actors including companies themselves.

TWO

Remedies for the adverse human rights impacts of the business activities of technology companies can potentially take many different forms, and different types of remediation mechanisms have their own distinctive contributions to make.[5]

EXPLAINER BOX 3

What are the different forms that remedies for business-related human rights harms can take?

Remedies for adverse human rights impacts can be categorised as follows:

- **Restitution** (restoring an affected person or group of people to the position they would have been had the harm not occurred);
- **Compensation** (financial compensation to compensate for harm that can be economically assessed, which could include compensation for physical or mental harm, lost earnings, or for costs of expert help, such as medical costs);
- **Rehabilitation** (includes providing medical and psychological care as well as legal and social services);
- **Satisfaction** (could include acknowledgement of facts, decisions to restore the dignity of affected people and groups, acknowledgements that human rights were violated, apologies, legal sanctions against the person responsible for the harm such as fines and prison sentences, commemorations); and
- **Guarantees of non-repetition** (measures that contribute to future prevention, including injunctions and changes to corporate policies, procedures and strategies).

A range of actions designed to put things right could potentially be classed as "remedies". The main types of remedies for human rights harms recognised in international law are listed in Box 3 above. However, this is not to imply that all kinds of remedies must be available in all cases. **Few remediation mechanisms have the power or ability to deliver the full range of remedies that are recognised by international law.** For instance, a company-based grievance mechanism obviously cannot issue fines

[5] On the importance of providing affected people with choice and flexibility, in order to allow them to tailor a package of remedies that best meets their needs (a 'bouquet' of remedies), see the 2017 report of the UN Working Group on Business and Human Rights to the UN General Assembly, (A/72/162).

or prison sentences.[6] And regulatory bodies, to the extent that their work may be relevant, will be constrained in what remediation they can offer by their statutory mandates and powers (e.g. to investigate and sanction non-compliance). While judicial processes may offer the best prospects of a binding financial settlement or compensatory damages, they may be less well placed to decide upon and implement remedies aimed at future prevention.

EXPLAINER BOX 4

What role can company-based grievance mechanisms play in the delivery of remedies for business-related human rights harms?

Company-based grievance mechanisms are an important means by which technology companies can address and remedy human rights harms directly (see further B-Tech foundational paper 'Designing and implementing effective company-based grievance mechanisms' and "SIX" below).

The UNGPs recommend that all business enterprises (including technology companies) "establish or participate in effective operational-level grievance mechanisms" for affected individuals and communities to enable early and direct resolution of grievances arising from adverse human rights impacts.

However, **there will be cases in which effective remedies will not be able to be provided without the involvement of law enforcement bodies and the courts.** This is particularly likely to be so in cases where there has been a breach of criminal law. However it may also be the case for adverse impacts which cannot be addressed on an individual, case-by-case basis—e.g. impacts which are cumulative in nature, or which are felt at a community level—and for which some form of regulatory intervention will be needed.

Technology companies need to **respect the delineation between the roles of different types of remediation mechanisms** in their own approaches and strategies related to remedying human rights harms. In particular, their approaches should be informed by a good understanding of how their company-based mechanisms fit within, and can contribute to, the "remedy ecosystem" within which they are working.

[6] See further "Explainer Box 4" below.

THREE

For remedies to meet international standards they must be effective. There are various tests for "effectiveness"; however the best judges of whether a remedy is actually effective in the circumstances are the affected people and groups themselves.

To meet international law standards on remedies for breaches of human rights, the remedy must be an effective one. The key elements of an "effective" remedy in international legal terms are that the remedy should be

- **provided in a timely manner** and without any undue delay (particularly important in cases where the value or usefulness of a remedy will decline or disappear over time);
- **proportionate to the gravity of the breach** and the harm suffered; and
- delivered in such a way that there is **"full and effective reparation"**.

Although international human rights law provides us with a useful framework for understanding and categorising remedies, the best judges of whether a remedy is an effective one *in a specific case* are the affected people and groups themselves. In order to meet their particular needs (and bearing in mind the different roles and attributes of different types of mechanism) affected people and groups may need to adopt a combination of approaches, which could involve recourse to more than one mechanism (or kind of mechanism).

For all these reasons, **technology companies should not seek to impede the ability of affected people and groups to put together and implement a remedial strategy that works for them**. In particular, technology companies should not take steps to limit the ability of people to access judicial processes (e.g. by demanding that people give up their rights to seek remedies elsewhere as a condition of accessing or participating in their company-based grievance mechanisms). A technology company which interferes with people's rights to an effective remedy in this way is unlikely to be acting consistently with the business responsibility to respect human rights; especially in cases where the kinds of sanctions that only courts can levy (e.g. fines or imprisonment of people who broke the law) are essential to an effective remedy.[7]

FOUR

Beyond setting and enforcing legal standards, State agencies can enhance access to remedy in a range of different ways, for instance through education, awareness-raising, capacity-building and other forms of support for affected people, as part of a "smart mix" of measures to foster business respect for human rights.[8]

The UNGPs urges all States to consider adopting **a "smart mix" of measures**—national and international, mandatory and voluntary—to foster business respect for human rights.[9] Within the technology sector, a "smart mix" of measures **recognises and enables the dynamism, creativity and**

[7] ARP III report, A/HRC/44/32, Annex, 8.4; explanatory addendum, A/HRC/44/32/Add.1, para. 45.

[8] See further B-Tech foundational paper 'Bridging Governance Gaps in the Age of Technology: Key Characteristics of the State Duty to Protect (forthcoming)'.

[9] Guiding Principle 3, Commentary.

innovation needed to deliver positive human rights impacts associated with development and use of technologies, whilst at the same time its ultimate goal is to ensure that technology companies respect human rights across all their business operations.[10]

Maintaining a "smart mix" of measures supports access to remedy for harms associated with the use of technologies in many different ways. Legal regimes on a wide range of matters[11] provide the essential underpinnings for public law remedies of various kinds (depending on the operation of the regime in question), such as financial compensation, the "satisfaction" of seeing criminal sanctions imposed, and binding orders to correct legal breaches and address underlying causes of harm. A "smart mix" of measures includes ensuring that the necessary resources are made available, along with the necessary political support, to ensure **robust enforcement** of legal standards.[12]

In some cases, **it may be possible for people to enforce their rights directly**, for instance under the law of tort, or under a **statutory cause of action**. A "smart mix" of measures includes making the investments and adjustments needed to ensure that people are aware of their rights and that the barriers they face in accessing judicial processes are recognised and addressed.[13]

States may also create **non-judicial routes** through which people may seek remedies for human rights related harms, for instance by raising complaints with regulators about the conduct of technology companies (e.g. with respect to trade practices, anti-competitive behaviour or data-handling). Other potential non-judicial routes to remedy may exist under the mandates of **national human rights institutions** to respond to grievances or to conduct inquiries; or through the **"national contact point" system established under the OECD Guidelines for Multinational Enterprises.**[14]

In addition to providing incentives for responsible business conduct more generally (see above), States can support and encourage the development and improvement of company-based grievance mechanisms more specifically, for instance by **providing suitable guidance for companies** and by adopting a **"whole government" approach to incentivising company-based remediation of human rights related harms**. Here, considering the different ways in which government services (e.g. export credit and official investment insurance) might be harnessed to encourage investment in company-based remediation mechanisms, or **making government procurement conditional on fulfilling key requirements** as regards company-level remediation for human rights-related harms, are obvious starting points.[15]

Laws and initiatives that empower individuals have a vital role to play in a "smart-mix" of measures by States. For instance, access to remedy can also be significantly enhanced through laws **demanding greater transparency** from technology companies with respect to the human rights risks posed by

[10] Guiding Principle 7. See further B-Tech foundational paper 'Bridging Governance Gaps in the Age of Technology: Key Characteristics of the State Duty to Protect (forthcoming)'.

[11] See further B-Tech foundational paper 'Access to remedy and the technology sector: a "remedy ecosystem" approach'.

[12] See further ARP I report, A/HRC/32/19 and explanatory addendum A/HRC/32/19.Add.1

[13] See further ARP I report, A/HRC/32/19 and explanatory addendum A/HRC/32/19.Add.1.

[14] This is a requirement for all governments adhering to the OECD Guidelines for Multinational Enterprises. https://www.oecd.org/investment/mne/ncps.htm.

[15] See Guiding Principles 4 to 6.

different kinds of technology (e.g. surveillance technologies). **Investing in institutions and initiatives** that assist, advise, channel resources to affected people and communities (e.g. national human rights institutions, research and knowledge-sharing "hubs") can help to empower people further.

Maintaining a "smart mix" of measures has an international dimension too. **Proactive involvement in international discussions (both State-to-State and multi-stakeholder) aimed at improving cross-border regulatory cooperation,** and **raising regulatory standards** relevant to the technology sector (as well as the performance and effectiveness of domestic regulatory agencies), are further ways in which States can enhance access to remediation mechanisms and their ability to deliver effective remedies, including in cross-border cases.[16]

FIVE

A technology company can cause, contribute or be directly linked to human rights harms. This has implications for the action it should take to address those harms, including the extent to which a company is expected to provide for or cooperate in remediation.

The UNGPs draw a distinction between situations where a company has caused or contributed to adverse human rights impacts and where there is a situation of "direct linkage" to harm through a business relationship. The UNGPs state that "where business enterprises identify that they have caused or contributed to adverse [human rights] impacts, they should provide for or cooperate in their remediation through legitimate processes."[17]

However, where there is a situation of linkage to harm, determining the appropriate action to address the harm can be more complex.[18] The UNGPs state that in this situation "the responsibility to respect human rights does not require that the enterprise itself provide remediation, though it may take a role in doing so."[19]

A technology company can cause an adverse human rights impact where its activities (its actions or omissions) on their own remove or reduce a person's (or group of persons') ability to enjoy a human right, i.e. where the company's activities are sufficient to result in harm. A technology company may, for example, cause an adverse impact on the right to privacy if failures to protect data result in private information being hacked or made public, or where the design of a technology product results in discriminatory access or user experience.

Of course, as with any employer, causing a human rights impact can also occur in relation to a technology company's own workforce. Examples would include if a company discriminates against women or minority populations in its hiring practices; or if contingency workers who are de facto employees are not treated as such. These workforce risks are critically important and may be the most salient human rights risks for some technology companies.

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[16] See further B-Tech foundational paper 'Access to remedy and the technology sector: a "remedy ecosystem" approach' (especially "FOUR").

[17] Guiding Principle 22.

[18] Guiding Principle 19, Commentary.

[19] Guiding Principle 22, Commentary.

Users of technology across all industries can also cause adverse human rights impacts; for example, when an employer uses an AI hiring algorithm to make decisions that are discriminatory, or when an insurance company deploys an algorithmic system that prices credit at a higher rate simply due to an individual's social media acquaintance. In such instances, these non-tech companies must ensure that victims are delivered remedy.

A technology company can contribute to an adverse human rights impact through its own activities (actions or omissions including in relation to the products and services they provide) when its activities are combined with those of other actors in ways that cause harm. Contribution implies that a technology company's actions and decisions—including in the course of product design, promotion, deployment, selling/licensing and oversight of use—facilitated or incentivised the user in such a way as to make the adverse human rights impact more likely. This element may in practice exclude activities that have only a trivial or minor effect on the actions of the user. For a further discussion on factors that may be used to determine whether a technology company is contributing to an adverse impact, please see page 6 of B-Tech foundational paper 'Taking Action to Address Human Rights Risks related to end-use'.

The impacts associated with the use of a technology company's products, services and solutions may also fall into the "linkage" category. Linkage refers to situations where a company has not caused or contributed to an adverse human rights impact, but there is nevertheless a link between the operations, products or services of the technology company and that impact through the company's business relationships. A situation of linkage may occur where a company has provided technology to an entity and it, in the context of using this product or service, acts in such a way that it causes (or is at risk of causing) an adverse impact.

Situations of linkage may also occur where the end-use occurs beyond a company's first-tier customer and user relationships. An example of this would be when a company's hardware or software is integrated as a component into a service by a third party (with or without express permission of the original company) that is then sold to another company whose use of the new technology results in human rights harms.

In practice, a technology company's involvement with an impact may shift over time depending on its own actions, omissions and evolving standards of good practice. For example, if a company identifies or is made aware of an ongoing human rights issue that is directly linked to its technology through the behaviour of a government agency, yet over time fails to take reasonable steps to seek to prevent or mitigate the impact (such as through restricting the use of certain features or using whatever leverage the company has to address its concerns about the way a technology is being used), it could eventually be seen to be facilitating the continuance of the agency's behaviour, and thus be in a situation of contribution.

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SIX

Some human rights harms associated with the use of technology products or services may be able to be remediated directly by technology companies through operational-level grievance mechanisms. In addition to remedying harm that has already occurred, these mechanisms also have a key role to play in prevention of future harm.

The UNGPs call on business enterprises to establish **effective operational-level grievance mechanisms**,[20] highlighting the important role that these can play as an **"early warning system"** regarding potential human rights harms.

Furthermore, effective operational-level grievance mechanisms operate as **a source of continuous learning** both for the mechanism itself and for the business enterprise as a whole, "enabling the institution administering the mechanism to identify and influence policies, procedures or practices that should be altered to prevent future harm".[21]

Many technology companies already operate an array of mechanisms that are relevant to addressing different sources of human rights-related risk or which have potential human rights-related consequences (e.g. content moderation and enforcement of community standards, "right to be forgotten" processes, privacy and data protection policies, copyright-related complaints, or complaints about service levels or access).[22] In some operating contexts, the types of grievance mechanisms made available, and their scope, may be mandated by regulatory requirements (e.g. specifications set out in an operating licence for a telecommunications company). Whatever the main drivers for establishing these types of grievance mechanisms, technology companies should always strive for "effectiveness", as defined in the UNGPs, in how they are designed and operated (see further "SEVEN" below).

Ensuring that these company-based grievance mechanisms are adequately and appropriately responsive to the profile of existing and emerging human rights risks posed by a technology company's activities is an ongoing endeavour. For further insights and information on designing and implementing company-based grievance mechanisms in the technology sector see B-Tech foundational papers 'Designing and implementing effective company-based grievance mechanisms' and 'Access to remedy and the technology sector: understanding the perspectives and needs of affected people and groups'.

[20] UNGP 29, and Commentary.

[21] UNGP 31(g), and Commentary. See further ARP III report, A/HRC/44/32, Annex, 13; explanatory addendum, A/HRC/44/32/Add.1, paras. 68-71.

[22] See further B-Tech foundational paper 'Designing and implementing effective company-based grievance mechanisms'.

SEVEN

The eight "effectiveness criteria" set out in Guiding Principle 31 provide a useful framework by which technology companies, legislators, policy makers, regulators and other decision-makers in the technology sector can assess the "effectiveness" of a wide range of remediation processes.

While judicial mechanisms (or "courts") have many features in common, non-judicial grievance mechanisms dealing with business-related human rights harms can come in many different shapes and sizes. For instance, some may be "State-based" (e.g. complaints mechanisms operated by regulators) and some may be privately operated (e.g. operational-level grievance mechanisms made available by technology companies themselves). Some may be designed to cover a broad range of issues, and some may have a more focussed mandate (e.g. company-based mechanisms established specifically to handle complaints about content and content moderation).

Regardless of the type of mechanism, however, it is possible to identify the features that will determine how effective they are in practice, from a human rights perspective. **The "effectiveness criteria" set out in the UN Guiding Principles provide a benchmark for designing, revising or assessing non-judicial grievance mechanisms established by technology companies, or relevant to their activities, to help ensure that they are effective in practice**.

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;

(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.

Did you know...

- Further guidance as to what these different aspects of "effectiveness" mean in practice can be found in the Commentary to the UNGPs.
- In the period since the endorsement by the UN Human Rights Council of the UNGPs, UN Human Rights has produced two additional reports offering practical suggestions as to how the effectiveness criteria can be implemented for a range of different non-judicial grievance mechanisms. The first of these (published in 2016) concerns **State-based non-judicial grievance mechanisms** and the second (published in 2020) concerns **"private" grievance mechanisms**, including company-based mechanisms, and mechanisms administered by (or in cooperation with) other stakeholders, such as multi-stakeholder initiatives and industry associations.
- For further discussion on key aspects of the **UNGP effectiveness criteria**, as they apply to **company-based grievance mechanisms in the technology sector**, please refer to B-Tech foundational paper "Designing and implementing effective company-based mechanisms".

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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.

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

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