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Human Rights Due Diligence **Toolkit** for Small and **Medium** Tech Enterprises

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PART A: BACKGROUND

> **"To gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts. This is a foundational step for effective management of human rights risks." – Guiding Principle 18**

The Technology Industry is an ever-growing fast-paced industry, especially in recent years, we have all borne witness to these emerging innovations that have come to help us with wide variety of activities from simple day-to-day tasks to complex industrial feats.

As expected, the rise in technological innovations also means a rise in technological enterprises on a small, medium, and large scale. It is this recent development that has necessitated the creation of this toolkit as a guide to small and medium tech enterprises as they must gauge the impact their companies, products, and services have on human rights.

While various approaches exist for assessing risk, such as corporate-wide or product-specific methods, this toolkit focuses solely on identifying human rights risks within a company's value chain.

This practical resource empowers small and medium-sized tech enterprises to navigate the complexities of human rights risk assessment. By providing a structured framework, it helps businesses understand the nature, likelihood, and potential consequences of various human rights risks.

The toolkit guides users through a step-by-step process, equipping them to identify potential threats posed by novel innovations, assess the impact on stakeholders, and consider the UN Guiding Principles on Business and Human Rights (UNGP-BHR). This comprehensive approach empowers businesses to proactively manage their human rights obligations and build a more ethical and sustainable future.

Introduction

Human Rights Due Diligence (HRDD) refers to a systematic process that organizations, case in study, small and medium-sized tech enterprises, including the gig services companies, undertake to identify, prevent, mitigate, and account for their activities' potential adverse human rights impacts. The concept of HRDD is often associated with corporate responsibility and sustainability.

Integrating Human Rights Due Diligence (HRDD) into business operations is indispensable for fostering responsible and sustainable practices. Beyond legal compliance, which is increasingly mandated by national and international frameworks, HRDD plays a pivotal role in risk mitigation. The ability to identify and address potential human rights risks by companies can proactively diminish legal, financial, and operational risks while upholding their ethical standards.

Moreover, integrating HRDD contributes to building a positive corporate reputation. Companies that demonstrate a commitment to respecting human rights gain trust and loyalty in a landscape where consumers and investors prioritize socially responsible practices. This positive image extends to the workforce, as employees are more likely to be attracted to and remain with companies that prioritize human rights, fostering a positive workplace culture. Additionally, with investors and financial institutions incorporating environmental, social, and governance (ESG) factors into decision-making, companies with robust HRDD processes are more likely to attract investment and secure financing.

Furthermore, HRDD aligns with broader global initiatives, including the United Nations' Sustainable Development Goals (SDGs), particularly those related to decent work, economic growth, and responsible consumption and production. It positions companies to contribute to a sustainable and equitable future, ensuring long-term resilience and adaptability in the face of evolving social and regulatory landscapes. In essence, integrating HRDD into business operations is not just a compliance necessity; it is a strategic imperative that fosters positive relationships with stakeholders, enhances brand reputation, and positions companies for sustained success in an increasingly conscious and interconnected global marketplace.

Human Rights by default, not an afterthought

The unchecked proliferation of tech products and systems raises alarming concerns about widening inequality, privacy violations, and threats to fundamental freedoms. While legislation and regulation are crucial, the power to shape this digital landscape ultimately lies with the tech companies themselves.

As the architects of these innovative systems, tech companies have a dual responsibility:

1. Proactive consideration of human rights: Integrating human rights due diligence into the very fabric of product development is an ethical imperative with a strategic advantage. Transitioning human rights from a cumbersome barrier to an innovative feature will require the following:

- Early assessment: examining potential human rights risks at the outset, not as an afterthought.

- Considerate design: incorporating privacy, equity, and transparency principles into the product's core functionality.

- Meaningful consultation: engaging with diverse stakeholders, including affected communities, to understand and mitigate potential harms.

- Rigorous oversight: Implementing robust internal mechanisms to monitor and address human rights risks throughout the product life cycle.

2. Ethics-washing won't protect human rights: Companies must move beyond superficial statements and demonstrate true commitment. This requires

transparent reporting, submitting to independent audits, and establishing clear accountability mechanisms. It's essential to listen to those directly impacted, actively engage with end-users, understand their concerns, and integrate their feedback into product development and decision-making processes

> **Shifting the narrative so that human rights protections are not seen as roadblocks to progress but rather as essential features of responsible innovation. Products worthy of our trust must respect and preserve our fundamental rights by default, not as an afterthought.**

PART B: AN OVERVIEW OF KEY HUMAN RIGHTS PRINCIPLES RELEVANT TO THE TECH INDUSTRY.

Given its global reach and influence, the tech industry is governed by several key human rights principles that guide ethical conduct and responsible business practices. Respect for the right to privacy is paramount, necessitating transparent and secure handling of user data. Upholding the freedom of expression while combatting hate speech and misinformation underscores the industry's responsibility. Non-discrimination principles compel tech companies to avoid reinforcing biases in their products and services. Ensuring fair labor practices and addressing issues such as worker exploitation and precarious employment are critical for upholding the right to work.

Additionally, promoting digital inclusion, safeguarding children's rights online, and supporting environmental sustainability are imperative aspects of responsible tech engagement.

Transparency and accountability, coupled with corporate social responsibility, are foundational principles to build trust with users and address the societal impact of tech operations. The tech industry's commitment to these human rights principles is essential for fostering an inclusive, equitable, and sustainable digital landscape.

The Global Standards and Frameworks Guiding Human and Digital Rights

Several global standards and frameworks provide guidance on human rights, particularly in the context of business operations. Among these, the UN Guiding Principles on Business and Human Rights (UNGPs) stand out as a foundational framework. Developed by the UN Human Rights Council, the UNGPs emphasize the three-pillar framework of "Protect, Respect, and Remedy," outlining the state's duty to protect human rights, businesses' responsibility to respect human rights, and the need for effective remedies for those adversely affected by business activities.

Another significant instrument is the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly. The UDHR sets out fundamental human rights principles that are universally applicable and provide a basis for shaping ethical business practices.

The International Labour Organization's (ILO) Declaration on Fundamental Principles and Rights at Work establishes core labor standards that businesses are expected to uphold. These include the freedom of association, the right to collective bargaining, elimination of forced and compulsory labor, the abolition of child labor, and the elimination of discrimination in respect to employment and occupation.

The Global Compact, launched by the United Nations, encourages businesses to adopt sustainable and socially responsible policies aligned with ten universally accepted principles in areas such as human rights, labor, environment, and anti-corruption.

The OECD Guidelines for Multinational Enterprises offer recommendations for responsible business conduct, encompassing human rights considerations. These guidelines provide a comprehensive framework for companies operating globally to address issues related to human rights, labor, environment, and corruption.

Additionally, regional frameworks, such as the African Charter on Human and Peoples' Rights and the European Union's Charter of Fundamental Rights, reinforce human rights principles within specific geopolitical contexts.

The integration of these global standards and frameworks into business operations is essential for companies to align with international expectations, demonstrate commitment to responsible business conduct, and contribute to the realization of a global business environment that upholds and respects human rights.

PART C: HRDD Implementation

Implementing Human Rights Due Diligence Policies

A human rights policy can take many forms and has no definitive template. However, some essential elements are set out in the UN Guiding Principles on Business and Human Rights. The human rights policy sets out how the company respects human rights by having policies and processes in place to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. Many human rights policies also elaborate on the company's commitment to support human rights, that is, to make a positive contribution to promote or advance human rights

Why develop a human rights policy?

Developing a human rights policy offers substantial benefits to small tech companies, even at their early stages. Firstly, it provides a solid foundation for ethical decision-making and helps align company values with actions. In a rapidly evolving digital landscape, a human rights policy acts as a compass, guiding decisions on issues like data privacy, algorithmic bias, and online safety. This proactive approach demonstrates foresight and responsibility to both stakeholders and potential investors.

Secondly, a human rights policy contributes to building trust and enhancing company's reputation. Consumers, partners, and employees are increasingly aware of the potential downsides of technology. Companies upholding strong human rights standards create a positive brand image, attracting talent and fostering long-term loyalty.

Finally, by proactively addressing human rights impacts, small tech companies can mitigate emerging risks related to legal compliance, investor scrutiny, and public backlash. A human rights policy demonstrates a commitment to responsible growth and helps navigate potential challenges while maintaining a clear conscience and minimizing potential harm to users and communities.

Key components of a good human rights policy

All policies – whether stand-alone or integrated should at a minimum comprise:

- An explicit commitment to respect all internationally recognized human rights standards, understood, at a minimum, the UNGP, International Bill of Rights and the ILO's Declaration on the Fundamental Principles and Rights at Work
- Stipulations concerning the company's expectations of personnel, business partners and other relevant parties
- Information on how the company will implement its commitment. It may also contain:
- An overview of the steps taken to develop the policy
- Information on the company's key human rights priority areas
- A description of how the company will deal with conflicts between international human rights principles and applicable host-government legal requirements
- A commitment by the company to "support" (i.e. contribute to the positive realization of) human rights
- A summary of those human rights (including labour rights and others) that the business recognizes as likely to be the most salient for its operations and information on how it will account for its actions to meet its responsibility to respect human rights

Crafting a human rights policy is a dynamic and iterative process, not a race to perfection. Many successful policies evolved over time, shaped by frequent ongoing reviews and adjustments. While the provided steps below offer guidance, there's no one-size-fits-all approach. Adapt them to your company's needs, embrace continuous refinement, and remember: starting your policy journey is the most important step.

- Assign senior management responsibility to drive the process
- Involve cross-functional personnel (human resources, legal, procurement, security, etc.) in the process to build understanding, know-how and a sense of common purpose
- Identify and draw on internal and/or external human rights expertise
- Map existing company policies to identify human rights coverage and gaps
- Conduct a basic mapping of key potential impacts
- Consult internal and relevant external stakeholders to identify and respond to their expectations
- Communicate the policy internally and externally
- Reflect human rights policy in operational policies and procedures

https://www.ohchr.org/sites/default/files/Documents/Issues/Business/guide-business-hr-policy.pdf KEY READINGS:
Why respect human rights and why develop a human rights policy?
• UN Guiding Principles on Business and Human Rights. Available at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (Links to the UN Guiding Principles in six other languages are available at: https://www.unglobalcompact.org/issues/human_rights/the_un_srsg_and_the_un_global_ compact.html)
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• How to Do Business with Respect for Human Rights: A Guidance Tool for Companies, Global Compact Network Netherlands, Business & Human Rights Initiative, 2010.
• Business and Human Rights Resource Centre, Company Policy Statements on Human Rights. Available at: http://business-humanrights.org/en/company-policy-statements-on-human-rights (Accessed 29 May 2015).
• United Nations Global Compact Guidance:

PRACTICAL TOOLS FOR IDENTIFYING, PRIORITIZING, AND MITIGATING POTENTIAL HUMAN RIGHTS RISKS ASSOCIATED WITH PRODUCTS, SERVICES, AND OPERATIONS.

According to the UNGPs, a credible human rights assessment should:

- Assess impacts on people, not impacts on business;
- Assess impacts against all internationally recognized human rights;
- Draw on internal or independent external human rights expertise; and
- Highlight the concerns of affected stakeholders.1

While there's no one-size-fits-all approach to identifying and mitigating risks, a diverse range of tools and templates can be employed to achieve these goals. Here are a few examples:

- Risk assessment questionnaire survey: considering that the entire objective of this toolkit is to ensure the human rights of all humans involved are respected and guaranteed, it's only logical to enquire from these people how/if they feel their rights are being threatened in any regard,

a questionnaire survey is a good interactive medium for this.2

- Risk prioritization framework: this tool would help tech companies streamline and focus their energy and resources on the human rights they stand the most risk of violating, this prioritization process is calculated by:

A. how many people may be impacted by the potential risk

B. assesses the gravity of the impact on the rightsholder

- The likelihood: of each potential risk becoming a current issue

C. analyses the possibility of restoring the victims to their prior state of well-being.

The Human Rights Due Diligence Guide outlines a four-step process to help businesses identify and assess potential and existing human rights impacts, implement measures to prevent and mitigate them, track the effectiveness of these

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1   Available at; https://www.bsr.org/en/reports/human-rights-assessments-identifying-risks-inform-ing-strategy
2   The ISO 31000 standard for risk management can be found at www.iso.org/standard/62407.html

measures, and report on how these impacts are being addressed. The key stages of this process are:

- Accessing impacts: identifying and assessing the impact the operations or product of a company will have on human rights.

- Integration and impact: to prevent and mitigate adverse human rights impacts, tech companies should integrate the findings from their impact assessments across relevant internal functions and processes and take appropriate action.

D. convening regularly to monitor the status of the risks and the effectiveness of the actions put in place.

E. report on your company's human rights performance. Tech businesses should be ready to externally account for how they address human rights impacts, this could include publishing an annual human rights report, making information available on your website, and engaging with stakeholders on your performance.

- A list of relevant international human rights standards and frameworks.
- A directory of human rights experts and organizations that can provide advice and support.

CASE STUDY: PRACTICAL IMPLEMENTATION USING HUMAN RIGHTS DUE DILIGENCE FRAMEWORK

Continental is a conglomerate with a diverse range of business units. The company develops technologies and services for sustainable and connected mobility of people and goods aimed at both business and private customers. The company has more than 233,000 employees in 59 countries. Bear in mind that despite the size of the company, the processes are easy to replicate in small and medium-sized tech companies.[1]

STEP 1: Risk and Impact Assessment

Continental uses different approaches to identify human rights risks. Potential hotspots are identified during regular external dialogues with customers and stakeholders from politics and civil society. This dialogue- and market-based approach plays a very important role in risk management for Continental due to the significant complexity of the supply chain and the large number of locations worldwide

Continental has also developed its own assessment framework for human rights risks at the country level. This was developed on the basis of an existing country risk analysis (building on existing work) in order to identify relevant human rights risks in the supply chain and at its own locations. The final country scoring is carried out in a consolidated manner by a central function and not independently by the individual business areas. All corporate functions at Continental have access to this tool.

STEP 2: Integration and Impact

For Continental, a key success factor involves bringing together a large number of different people – from diverse business units – to jointly develop specific solutions for the implementation of human rights due diligence. The central team plays a facilitator role and tries to create a sense of ownership in the different units.

Based on the understanding of risk described above, Continental is able to implement targeted measures at hotspots. Great attention is paid to the cultural and risk context since many human rights issues can be influenced by culture. In order to strengthen the understanding of risk and mitigation among all employees, mandatory online and face-to-face training on human rights and good working conditions are held as part of the code of conduct training courses. Specific trainings are also developed with relevant functions in the company in order to help integrate human rights into management processes and business decisions.

Lastly, Continental has incorporated the obligation to carry out human rights due diligence

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1   Implementation case gotten from: https://thetimes.co.ke/registration-open-for-11th-digital-rights-and-inclusion-forum-in-accra-ghana/ (page 60 - 65)

into various policies: 1. Code of Conduct for all employees, 2. Code of Conduct for Direct Business Partners and 3. Purchasing Policy for Sustainable Natural Rubber.

STEP 3: Tracking
Continental has established a central unit for human rights due diligence, which is located in the Sustainability Department.

Human rights due diligence is dealt with by the Sustainability Department, which in turn reports to the Board member responsible for Human Relations and Sustainability. Interaction with the Group's Executive Board and the management of the business units regarding the implementation of the sustainability strategy takes place through the Group's Sustainability Committee and via topic-specific committees at the group and business unit level e.g. Purchasing and Risk Management. The sustainability coordinators in the business areas perform a bridging role between the central team and the business units, central functions, and regions.

STEP 4: Communication
Continental reports on its human rights activities primarily in its annual Sustainability Report and UK Modern Slavery Statement. There's also a webpage on the topic and a corresponding area in the company's intranet.

In dealing with allegations regarding potential violations of human rights, Continental places great value on a dialogue-based approach and tries to avoid combative responses (e.g. "We have nothing to do with that"). It aims to bring the right people and organizations together to find solutions. For example, many external stakeholders such as NGOs were consulted when developing the natural rubber purchasing policy in 2018.

STAKEHOLDERS MAPPING

STAKEHOLDER

A stakeholder has a vested interest in a company and can either affect or be affected by a business's operations and performance. Typical stakeholders are investors, employees, customers, suppliers, communities, governments, or trade associations3. In this context however, Organizations informed about and capable of speaking on behalf of rights holders, such as civil society organizations, activist groups, opinion formers, policymakers, or regulators.

> **Bonus point: Rights Holders are a bit different from general stakeholders, these are Individuals whose rights could be directly impacted by the company. Rightsholders interact with the company and its products and services, typically as workers, customers, or users.**

PRINCIPAL STAKEHOLDERS

The success of your product or services hinges on understanding and engaging with its key stakeholders, individuals and groups significantly impacted by its existence, either positively or negatively. These stakeholders encompass both internal and external groups.

Internally, your employees are the backbone of the product or services, directly carrying out tasks and experiencing its effects firsthand. Their well-being and perspectives are crucial considerations. Similarly, managers oversee the project's execution and ensure its alignment with company goals. Their guidance and leadership are essential. Additionally, suppliers and business partners collaborate with you, and their operations and well-being are intertwined with the product's success.

Externally, your project interacts with several key stakeholders. Customers and users directly engage with the project's outcomes and potentially experience its consequences. Understanding their needs and concerns is essential. Technology policy experts and researchers offer specialized knowledge and perspectives on responsible technology use, helping you navigate this critical aspect.

Protecting individual privacy is paramount, which is why privacy and data protection advocates play a vital role in ensuring your project adheres to relevant regulations and ethical considerations. Additionally, civil society organizations and human rights experts focus on mitigating the potential downsides of technology on communities and individuals, making their insights invaluable in shaping responsible development.

Significance of Engaging with Diverse Stakeholders

Engaging with diverse stakeholders is crucial for several reasons:

Comprehensive Impact Assessment:

Diverse stakeholder engagement ensures a more comprehensive understanding of the potential human rights impacts associated with business activities.

Contextual Awareness:

Stakeholder engagement helps companies grasp the nuanced and context-specific aspects of human rights issues, facilitating tailored and effective mitigation strategies.

Risk Mitigtion:

By actively involving stakeholders, companies can identify and address potential risks early on, minimizing adverse impacts and mitigating potential legal, financial, and reputational risks.

Building Trust and Legitimacy:

Engaging with stakeholders demonstrates a commitment to transparency, accountability, and ethical practices, thereby building trust and legitimacy with both internal and external communities.

Inclusive Decision-Making:

Involving diverse stakeholders in decision-making processes ensures a more inclusive and representative approach, leading to better-informed and balanced decisions.

Enhanced Innovation:

Stakeholder engagement fosters an environment of open communication, enabling companies to gather innovative ideas and perspectives that can contribute to the development of more socially responsible products and

Risk Assessment

Conducting a human rights risk assessment in the tech sector is essential for identifying, mitigating, and preventing potential adverse impacts associated with business activities. Here's a 12 step guide tailored to the tech industry:

01 • **Establish a Cross-Functional Team:** Assemble a multidisciplinary team including representatives from legal, compliance, ethics, human resources, and relevant business units. This ensures diverse perspectives are considered.

02 • **Define Scope and Objectives:** Clearly define the scope of the assessment, specifying the geographic locations, business units, products, and services to be evaluated. Establish the primary objectives, such as identifying and prioritizing human rights risks.

03 • **Understand the Business Context:** Develop a comprehensive understanding of the tech company's operations, supply chain, and business relationships. Identify potential human rights risks associated with specific technologies, data practices, and partnerships.

04 • **Identify Relevant Human Rights Standards:** Familiarize the team with international human rights standards, such as the UN Guiding Principles on Business and Human Rights. Align the assessment with these principles to ensure a globally recognized framework.

05 • **Map Stakeholders:** Identify and map key stakeholders, including employees, users, local communities, suppliers, and investors. Understand their perspectives, expectations, and potential human rights concerns.

06 • **Conduct a Human Rights Impact Assessment (HRIA):** Assess potential human rights impacts across the company's value chain. Consider the impact on privacy, freedom of expression, labor rights, and other relevant human rights. Utilize tools such as surveys, interviews, and site visits.

07 • **Prioritize Risks:** Prioritize identified risks based on severity, likelihood, and potential impact. Focus on those with the greatest potential harm to individuals or communities and those posing the highest reputational and legal risks.

08 • **Integrate Risk Mitigation Strategies:** Develop and implement risk mitigation strategies tailored to the identified risks. This may include updating policies, enhancing due diligence processes, and implementing human rights training for employees.

09 • **Implement Monitoring Mechanisms:** Establish monitoring mechanisms to track the effectiveness of risk mitigation strategies. Regularly review and update these mechanisms to adapt to changing circumstances and emerging risks.

10 • **Engage Stakeholders:** Engage with stakeholders, including affected communities, through ongoing consultations. Seek feedback on the effectiveness of mitigation measures and continuously improve based on their input.

11 • **Communicate Findings and Actions:** Transparently communicate the findings of the human rights risk assessment, including identified risks, mitigation strategies, and progress made. Ensure internal and external stakeholders are informed.

12 • **Integrate Learnings into Business Processes:** Integrate the learnings from the assessment into day-to-day business operations. Embed human rights considerations into decision-making processes, product development, and supplier relationships.

13 • **Review and Update:** Regularly review and update the human rights risk assessment, considering changes in the business environment, technology landscape, and emerging human rights standards.

PART D: Investors

Investors' Interest

Sustainable investing is an investing philosophy wherein an investor takes a company's environmental, social, and corporate governance (ESG) factors into account. It refers to a range of practices in which investors aim to achieve financial returns while promoting long-term environmental or social value. Combining traditional investment approaches with environmental, social, and corporate governance (ESG) insights has led to investors generating more comprehensive analyses and making better investment decisions.

Sustainable investing ensures companies aren't judged solely on short-term financial gains but on a broader picture of what and how they contribute to society. Sustainable Investors often think critically about investments' potential impacts as they relate to environmental, political, and societal landscapes. The concept has become increasingly popular due to demand from millennials and impact investors concerned with ethical investing or funding companies with intrinsic values that make a positive impact and drive change.

As more investors become attuned to how their investment monies further or hinder the causes they care about, sustainable investing is likely to grow in popularity. Likewise, organizations that want to attract investment dollars and positive press coverage will be pressured to improve their ESG scores.

Companies are increasingly ramping up their focus on social responsibility, whether they are championing women's rights, protecting the environment, or attempting to obliterate poverty, on local, national, or global levels. From an optics perspective, socially responsible companies project more attractive images to both consumers and shareholders alike, which serves to positively affect their bottom lines.

Conclusion

Building a Human-Centric Tech Company

The tech industry thrives on innovation, but true success is measured not just by progress, but by the impact it has on the lives of those it touches. To build a truly sustainable and impactful company, weaving respect for human rights into the fabric of your organization is crucial.

Beyond simply meeting compliance standards, strive to be a leader in responsible business conduct. Continuously refine your human rights policies and practices, demonstrating a genuine commitment to upholding human rights in all aspects of your operations.

This journey starts with listening to stakeholders. Understand the voices of your employees, customers, and communities. What are their concerns and expectations regarding human rights? Integrating these diverse perspectives fosters trust and ensures your company operates ethically.

Finally, empower your employees to champion human rights within their roles. Invest in training and development opportunities, equipping them with the knowledge and skills to navigate human rights issues effectively. This fosters a culture of ethical decision-making and accountability throughout the organization.

Next, become proactive in identifying and managing potential risks. Regularly assess your policies and processes, identifying areas where human rights concerns might arise. By staying informed about evolving issues and taking action to mitigate risks, you demonstrate a commitment to responsible practices.

By prioritizing respect for human rights, you can build a successful tech company that not only innovates, but also leaves a positive impact on the world around it. This commitment ensures your company operates with integrity, building trust with stakeholders and creating a more equitable future for all.

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