



At a glance: Human rights due diligence for surveillance technologies investor guide

As the information and communication technology (ICT) industry rapidly expands, it has the power to support democratic, accountable institutions and the exercise of civic freedoms or perpetuate violations of individual and collective rights. As described by the [UN Human Rights Council's 2020 report](#), new technologies can enable individuals in exercising their rights and in recent years have been used to [organize social movements](#), [document abuses](#), and [ensure access to education](#). However, as [UN experts](#), [digital rights organizations](#), and [state governments](#) attest, certain new technologies – particularly those with [targeted](#) (e.g., [spyware](#)) and [mass](#) (e.g., [biometric recognition software](#)) surveillance capabilities – are being used to systematically violate a range of human rights.

While surveillance technologies can serve legitimate law-enforcement and national security purposes with appropriate government oversight and accountability, they are regularly deployed in ways that have both subtle and profound impacts on human rights. They are being used to gradually erode norms around [individual privacy and trust between citizens and their governments](#); enable the growing [illiberalism and autocratization](#) of certain states; [promote censorship](#) of media outlets and human rights defenders; facilitate the surveillance, detention, and forced labor of [hundreds of thousands of members of an ethnic minority](#); reinforce [discrimination](#); and have led to the [kidnapping and killing](#) of political dissidents by repressive regimes.

As shareholders in companies with activities or investments in the surveillance technology ecosystem, investors have a critical role to play in promoting human rights and abiding by their responsibilities under the [UN Guiding Principles on Business and Human Rights](#) (UNGPs). Investors also have a fiduciary duty to their clients, which has evolved to include [environmental, social, and governance](#) (ESG) criteria as key indicators of a company's long-term value and performance. As the [unfolding case of NSO Group](#) demonstrates, human rights risks are material risks, accompanied by legal, reputational, and financial consequences for companies and their investors.

Investors considering purchasing or holding shares in surveillance technology companies need to conduct human rights due diligence (HRDD). This is to protect their investments, fulfil their responsibilities under the UNGPs, and ensure emerging technologies are used to support human rights and democratic freedoms around the world. Such companies include the following categories:

- ➔ Companies exclusively engaging in the production and/or sale of one or more surveillance technologies or services (e.g., NSO Group, Gamma).
- ➔ Companies providing a range of goods, services, and technologies that include, but are not limited to, surveillance technologies (e.g., Alphabet, Amazon).
- ➔ Companies producing goods, services, and technologies that can be used for both surveillance and non-surveillance purposes (e.g., Sandvine).

Navigating the surveillance technology ecosystem: A human rights due diligence guide for investors

assists investors in conducting this [human rights due diligence](#). Grounded in the perspectives of digital rights advocates, HRDD modeling experts, and investors, the Guide draws on learnings from a series of virtual workshops as well as individual interviews and desk research. It seeks to assist investors of all sizes, types, and geographies to navigate the surveillance technology ecosystem by providing definitions, examples of current and evolving risks, and guideposts to be used in fulfilling their human rights and fiduciary responsibilities. Specifically, it includes: (a) an examination of how surveillance technologies create human rights risks for individuals and communities; (b) an explanation of material risks for investors; (c) questions to identify severity of risk; and (d) a framework for investment decision making. While developed for institutional investors, the Guide will also be useful for other stakeholders, including civil society organizations, companies, and policymakers.

The key HRDD steps are organized in three areas for investors to consider through the use of targeted questions:

- ➔ **Governance, Policy & Practice** refers to the role, composition, culture, and special units (e.g., human rights committee) of the company's board of directors and senior staff as well as the preventative and mitigatory policies and practices the company has in place to identify, assess, and address human rights harms.
- ➔ **Product Life Cycle** considers the ways in which a company's "design & development," "promotion, deployment & sale," and "licensing & use" either make its products or services vulnerable to rights-violating behavior by end users or enable the company to prevent and/or mitigate human rights harms in its value chain.
- ➔ **Remedy** examines the policies and practices the company has in place to provide access to remedy for individual(s) adversely impacted by the use of its product or service.

The Guide also provides investors with assistance to apply the findings from their evaluative process via a tiered risk management framework. While decisions ultimately rest with investors, the evaluative criteria that correspond to three levels of risk - illustrated through descriptions of potential company conduct, risks, and decisions - offer some guidance when making the decision to invest in, engage, or exclude a company in the surveillance technology industry.

Background: The Guide is a product of the Surveillance Technologies Accountability Project, a joint initiative of [Heartland Initiative](#), [Business & Human Rights Resource Centre](#), and [Access Now](#). Over the last two years, project partners worked with [Agentura.ru](#), [Gulf Centre for Human Rights](#), [Paradigm Initiative](#), [R3D](#), and experts from the digital rights, business and human rights, and investment communities to develop the Guide.