

I. Introduction

This document serves as a supplement to international standards on human rights for businesses, including but not limited to the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the ILO's Declaration on Fundamental Principles and Rights at Work.

It also references internationally recognized human rights and international law, found in instruments such as the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, the International Convention on Economic, Social, and Cultural Rights, the UN Convention Against Transnational Crime and its Protocols, and the 1951 Refugee Convention and its Protocols.

The purpose of this document is to highlight how the responsibility to respect human rights applies to the AAM Industry, and to call attention to specific risks that might be associated with the industry. AAM companies should “avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts where they occur” and to “prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts.”¹ Even if an AAM company is not directly involved in human rights abuses, that company might still face legal liability or other international mechanisms of accountability if its products or services are used in human rights violations.²

States are obligated to undertake measures to ensure that human rights abuses do not occur within their borders, and those efforts include preventing and punishing private action.³ Companies that do not undergo human rights due diligence risk being subject to adverse state action, therefore, it is in a company's best interest to take all reasonable measures to prevent abuses of human rights.

AAM companies must therefore endeavor not just to prevent human rights abuses in their regular corporate operations but must also take steps to ensure that their products, such as eVTOLs, air taxis, etc., are not used in furtherance of human rights abuses by states or private actors. The issues listed in this document are not exhaustive.

II. Risks Involving Private Action:

¹ Office of the High Commissioner on Human Rights, UN Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect, and Remedy” Framework, 13-26, UN Doc HR/PUB/11/04 (2011), https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf (“UNGPs”). *See also* Guidelines for Multinational Enterprises on Reasonable Business Conduct, OECD (June 8, 2023), https://www.oecd.org/en/publications/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990.html.

² UNGPs.

³ *Id.*

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Private, non-state actors might engage in domestic or transnational criminal activity using AAM technology. AAM companies should undertake reasonable measures to prevent such misuse. Depending on the circumstances surrounding an incident, the state in which the conduct occurred, and the home state of the AAM company, AAM companies themselves might be complicit in human rights abuses by private actors.⁴

1. *Human Trafficking*

Trafficking in persons is defined under international standards as “the recruitment, **transportation, transfer**, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.”⁵

AAM aircraft are quieter, and therefore less likely to be detected, than regular helicopters or planes, which might increase appeal to human traffickers for chartering or private purchase. Additionally, for short-distance transportation, air taxis might appeal to traffickers more than grounded transportation because of the inherent difficulty of escape in an airborne aircraft as opposed to grounded transportation like a bus or car. Accordingly, companies should take all reasonable steps to ensure that their services and/or products are not used in furtherance of human trafficking.

Regarding services, AAM companies that provide transportation services themselves (as opposed to just developing and selling AAM aircraft) should take the same precautions that other transportation companies take to ensure passengers are not victims of human trafficking, and if circumstances indicate they are, to take the appropriate measures to ensure the intervention and safety of that individual.⁶

2. *Seizure of Aircraft*

Rights to life, liberty, and security are universal human rights threatened by the unlawful private seizure of aircraft. Particular dangers arise when an autonomous or semi-autonomous aircraft falls victim to hacking, to both passengers inside the aircraft as well as the public in the surrounding area of the aircraft. Instead of risking their own safety via traditional on-board aircraft

⁴ See UNGPs.

⁵ Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319 (entered into force Dec. 25, 2003) (emphasis added).

⁶ See *Blue Lightning Initiative*, U.S. DEP’T OF TRANSP., <https://www.transportation.gov/stop-human-trafficking/BLI#:~:text=Blue%20Lightning%20Initiative%20Training%20Module,to%20potential%20human%20trafficking%20victims>; *Rail Industry Resources to Combat Human Trafficking*, U.S. DEP’T OF TRANSP., <https://www.transportation.gov/stop-human-trafficking/rail>; and *Help Stop Human Trafficking*, UBER, <https://www.uber.com/us/en/community/safety/fighting-human-trafficking/>.

hijacking, “cyjackers” who take control of an aircraft via hacking have much less risk to their own personal safety.

3. Data Privacy

Though protecting data privacy is not unique to the AAM Industry, as a transportation industry, the nature of AAM business requires extra care and protections for consumer data. Travel patterns, including routes and dates and times, might pose danger to users if acquired by malicious actors. Just as privacy is a human right, some watchdogs have extended that protection to online and data privacy.⁷ Under the corporate responsibility to respect human rights, AAM companies should follow industry trends in protecting data privacy and have rigorous cybersecurity measures in place.

III. Risks Involving State Action:

States have their own obligations to protect human rights. However, even when states fail to meet these obligations, companies are still expected to undergo human rights due diligence.⁸ Accordingly, AAM companies should endeavor to ensure that their industry is not used for the following human rights abuses.

1. Enforced Disappearances and/or Arbitrary Deprivation of Life

States might use AAM aircraft to suppress, abduct, or kill dissenters. Since AAM aircraft can be either partially or completely autonomous, an aircraft’s systems could be hacked, and its systems might be vulnerable to shutting down completely, potentially harming or killing a dissenter within the aircraft. A state could also redirect an aircraft off of its intended course to bring a dissenter under state control. This might involve enforced disappearance, where the state refuses to acknowledge the disappearance or redirection of an AAM aircraft.

2. Forced Return (Refoulement)

This risk applies to both the origin state of refugees and transitory or host states for refugees. States of origin might attempt to interfere with AAM transportation of refugees, and host states might use AAM aircraft as means of refoulement to states of origin. For example, if a Chinese individual sought refuge in Hong Kong, and happened to take a ride in autonomous aircraft while in Hong Kong, in theory, the Chinese government could hack the aircraft and forcibly return the citizen to Chinese jurisdiction away from the Special Administrative Region.

3. Transnational Suppression

⁷ Data Privacy is a Human Right, Hum. Rts. Watch (Apr. 19, 2018), https://www.hrw.org/news/2018/04/19/data-privacy-human-right?gad_source=1&gbraid=0AAAAADrFXcjsK40nqxOacprHoVmFq4pMp&gclid=Cj0KCQjwlMfABhCWARIsADGXdy9JvTgzW-ceG4Fe6r1JJabQ3AYYrjte_pPz7nddBc8zZwsaJ8OhfEaAu4ZEALw_wcB

⁸ UNGPs.

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This broad category includes state action such as killing or abducting victims, but with the added layer of use of AAM aircraft. Since AAM aircraft can be autonomous, or semi-autonomous, there may be less guardrails to prevent an overseas attack.

4. Data Privacy

Similar to concerns of private actors maliciously accessing and using data, governments might be able to access travel patterns, including routes and dates and times. States might acquire this information through hacking or requests through AAM companies. AAM companies should accordingly follow industry standards in data privacy and cybersecurity efforts, and companies should have a policy in place for government data requests that aligns with international human rights standards.

5. Asset Seizure

States might expropriate assets like AAM aircraft and vertiports without compensation as part of a nationalization campaign or alleged safety issue or national emergency. This can compromise the right to own property. AAM companies should avoid falling victim to this risk.

6. Unequal Access

Governments might not allow AAM companies to build vertiports or other AAM infrastructure in areas where minorities live. A government may also refuse to provide emergency medical transport or other government services for someone based on that person's protected characteristic. It is common for governments to conduct zoning and to develop new technologies at different rates in different geographical areas, and this is not automatically a human rights violation. However, this can become a human rights issue if a state tries to limit AAM access to minority or other protected group.

7. Environmental Impacts

Many states use primarily fossil fuels for their electrical grids. Although this is not automatically a human rights violation, this can be an issue if a government is not taking steps to reduce its fossil fuel usage consistent with the human rights to life, an adequate standard of living, health, etc. AAM companies may also risk overloading existing electrical grids by building charging stations; states might not take action to increase their renewable energy generation to keep up. AAM companies should aim to be transparent about environmental impacts and avoid greenwashing.

8. Labor Rights

States may have laws prohibiting or restricting membership in labor unions. States may also act outside their legal systems to repress labor unions. AAM companies operating in these states must make sure that any employees working in those states have a right to form and join labor unions without coercion. Additionally, some states may not have minimum wages or

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minimum working condition standards; AAM companies must still ensure that they are providing their employees with an adequate standard of living and appropriate working conditions.

9. Education Rights

States might make education expensive or otherwise inaccessible to some people. In the event that an AAM company displaces conventional aviation workers or uses automation tools instead of workers, those formerly employed workers may find it difficult to access sufficient education to get a new job, compromising their right to work and right to education.

10. Freedom of Movement

States may try to interfere with freedom of movement by limiting where political enemies or marginalized groups may travel. This is similar to the unequal access situations, and can also implicate other human rights including, but not limited to, the right to education (where the state restricts travel to and from schools) or the right to work (where the state restricts travel to and from workplaces).