RISKY BUSINESS

HOW LEADING VENTURE CAPITAL FIRMS IGNORE HUMAN RIGHTS WHEN INVESTING IN TECHNOLOGY

AMNESTY INTERNATIONAL

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

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CONTENTS

1. EXECUTIVE SUMMARY

The internet touches almost all aspects of our lives. The most visible manifestation of this is the rise of Big Tech – companies like Amazon, Apple, Facebook and Google, whose products and services reach billions of people worldwide. Yet these and other large technology companies did not simply emerge in a vacuum. Instead, they received early funding and support from venture capital (VC) firms.

VC firms are a subset of the private equity industry. They provide equity financing for early and growth stage companies (commonly referred to as "start-ups" or "ventures"). VC firms play a critical gatekeeper role, deciding which new technologies and technology companies will receive early-stage funding, and which will not. This, in turn, helps determine which start-ups today will develop the new platforms and technologies that will shape our lives tomorrow.

Venture capitalists help shape the future of technology, and with it the future of our economies, politics, societies and fundamentally, our human rights. VC firms fund start-ups in sectors as disparate as advertising, education, energy, finance, health, the media, transportation and others.

The stakes are enormous. If we want to understand, much less influence, the future of technology, we need to understand how VC firms decide which start-ups and new technologies to support.

And yet, as this briefing shows, venture capitalists today operate with little to no consideration of the broader human rights and societal impact of their investment decisions.

Companies and investors have a responsibility to respect all human rights wherever they operate in the world and throughout their operations. This is a widely recognised standard of expected conduct as set out in international business and human rights standards including the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles).

To meet this responsibility, companies and investors – including VC firms – must take proactive and ongoing steps to identify and respond to the potential or actual human rights impacts of their investments. This entails undertaking human rights due diligence to identify, prevent, mitigate and account for their human rights impacts. For VC firms, this responsibility applies to their decisions about the sectors on which to focus, and which companies they choose to invest in.

For this briefing, Amnesty International surveyed 53 of the world's largest venture capital firms and startup accelerators, supplemented by research into these firms' due diligence policies and practices, where publicly available.[1] Of the 50 VC firms and 3 startup accelerators analyzed by Amnesty International, we found that only one firm (Atomico) potentially had human rights due diligence processes in place that met the standards set forth by the UN Guiding Principles on Business and Human Rights. An additional eight VC firms and accelerators (15% of all firms surveyed) state that they conduct human rights and / or environmental, social and governance (ESG) due diligence, though they

1. A full list of the firms and accelerators Amnesty contacted is included as Appendix 1.

did not provide sufficient information to allow us to determine whether their policies and processes actually met the minimum standards set forth in the UN Guiding Principles. Overall, for 44 of the 53 of the VC firms and accelerators surveyed (83% of all firms surveyed), we were not able to find any evidence of human rights due diligence policies.

It is important to note that a failure to carry out adequate due diligence is a failure of the corporate responsibility to respect human rights. Therefore, all VC firms that have not provided evidence of a human rights due diligence process that meets the standards set forth in the UN Guiding Principles are failing in their responsibility to respect human rights.

This almost complete lack of any human rights due diligence processes amongst the world's largest venture capital firms is significant and has three key impacts, each as further described below. First, and most immediately, it means that VC firms sometimes invest in companies whose products and services have been implicated in ongoing human rights abuses, such as companies that provide support to the Chinese Government's repression of the Uyghur population in Xinjiang and across China. Second, it means that VC firms continue to fund companies whose business models have a significant negative impact on human rights, including privacy and labor rights. Third, the lack of human rights due diligence by VC firms dramatically increases the risk that they fund companies developing new and "frontier" technologies that have a significant negative impact on human rights, as long as those technologies promise a positive return on investment. For instance, the application of increasingly powerful artificial intelligence / machine learning (AI/ML) tools across a wide variety of sectors risks amplifying existing societal biases and discrimination.

The potential negative impacts of the VC firms' lack of human rights due diligence – especially as regards issues like algorithmic bias – are magnified by these firms' own lack of gender and racial diversity. For instance, as of 2020 in the US women comprise only 23% of venture capital investment professionals (i.e. those involved in deciding which startups to fund). The numbers are even worse when it comes to racial diversity – 4% of investment professionals at VC firms are Latinx, and 4% are Black.

The numbers are even more stark for senior positions within the venture capital sector. As of 2020 men comprised 84% of all investment partners (including managing general partners, managing partners, general partners, founding partners and managing directors), while 65% of firms did not have a single female investment partner. Similarly, only 3% of investment partners are Black, while 93% of firms did not have a single Black investment partner, while 4% of investment partners are Latinx, and 90% of firms did not have a single Latinx investment partner.

This lack of diversity is mirrored in the gender and racial composition of founders who receive VC funding. In 2018, all-female founding teams received just 2.2% of all US-based venture funding. Further, startups with both male and female founders received only 15% of all VC funding. At the same time, Black and Latinx founders received less than 2.3% of all US-based venture capital funding in 2019.

This lack of diversity means that VC firms – and the startups they fund – are less likely to consider how new technologies will impact women as well as minority and marginalized communities. This is all the more critical given the growing risks posed by algorithmic bias and discrimination, especially as VC-funded startups seek to disrupt such fundamental parts of our lives as education, finance and health.

VC firms have a responsibility to ensure that their investments are not causing harm. A responsibility that they have, to date, largely ignored.

2. METHODOLOGY

The sample for this report consisted of the 50 largest venture capital funds as measured in total funding raised over the last five years, using the Venture Capital Journal (VCJ) 50 List 2020,[2] as well as three high profile seed money start-up accelerators (Y Combinator, 500 Start-ups and Techstars).[3] Of the VC firms in this sample, six are based in Europe (including France, Germany, Sweden, Switzerland, and the UK), six are based in China, and 41 are based in the United States. Of those based in the United States, 21 are based in the Bay Area (including San Francisco and Silicon Valley), eight are based in Boston or Cambridge, five are based in New York, and the rest in other parts of the country. It is important to note that this sample is not representative of the VC sector as a whole, which includes over 2,900 VC firms worldwide.[4] Instead, the purpose of this briefing is to understand the human rights due diligence practices of the world's largest, and most influential, VC firms. Together, the 50 VC firms comprising the VCJ 50 List have raised over $164 billion dollars in the last five years.[5]

To investigate whether VC funds and those providing their capital conduct human rights due diligence, Amnesty International first conducted a review of the publicly available information about each VC firm and accelerator's human rights policies, focusing on information available on their websites. The results have several important limitations. Some funds did not have searchable websites; some funds may have human rights due diligence practices that are not disclosed publicly on their websites. Some funds may capture elements of human rights due diligence in other policies such as "Investment Policy", "Risk Management Policy" or "Board Procedures and Practices".

In order to address these limitations, Amnesty International then sent detailed letters to the General Counsels of each of the 50 VC firms and three startup accelerators on March 4th, requesting information on their human rights due diligence practices.[6] Two weeks after sending the letter, Amnesty International sent a follow-up email to each firm and accelerator as well. Of the 53 VC firms and accelerators to which Amnesty International sent letters, six responded either by email or letter (11%). The responses of these firms are described in more detail below, and also included in the Appendices. We then sent follow-up letters in early July to firms mentioned explicitly in this report. None of the firms responded to these follow-on letters.

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2. *The VCJ 50: Venture capital's heavy hitters,* Venture Capital Journal, 2020, www.venturecapitaljournal.com/the-vcj-50-venture-capitals-heavy-hitters.

3. The Harvard Business Review defines a startup accelerator as follows: "Startup accelerators support early-stage, growth-driven companies through education, mentorship, and financing. Startups enter accelerators for a fixed-period of time, and as part of a cohort of companies. The accelerator experience is a process of intense, rapid, and immersive education aimed at accelerating the life cycle of young innovative companies, compressing years' worth of learning-by-doing into just a few months." See I. Hathaway, *What Startup Accelerators Really Do*, Harvard Business Review, 2016, hbr.org/2016/03/what-startup-accelerators-really-do.

4. A. Graham, *State of the Venture Capital Industry in 2019*, Toptal, 2019, www.toptal.com/finance/venture-capital-consultants/state-of-venture-capital-industry-2019.

5. *The VCJ 50*, www.venturecapitaljournal.com/the-vcj-50-venture-capitals-heavy-hitters.

6. An example of the letter Amnesty sent to VC firms is included in Appendix 2. Where Amnesty could not find contact information for a firm's General Counsel or legal team, we instead contacted the most senior member of the firm's investment team.

3. BACKGROUND: WHAT IS VENTURE CAPITAL?

Venture capital firms are a subset of the private equity industry that provides equity financing for early and growth stage companies (commonly referred to as "start-ups" or "ventures"). Most venture capital firms hold their investment for several years until a firm is either acquired, bought out by a private equity firm or goes public (IPO). Any given venture capital firm manages one or more venture capital funds.

Globally, venture capital firms provided $300 billion in funding to start-ups in 2020,[7] up from $254 billion in 2018.[8]

As of 2019 there were approximately 2,973 venture capital funds worldwide,[9] of which 1,816 are in the US, 562 in Europe and 33 in China.[10] This means that 81% of all venture capital funds worldwide are clustered in just a handful of countries, which in turn are shaping the future of technology.[11]

Most venture capital firms use a business model of collecting a 2% annual management fee of their assets under management (AUM), as well as 20% carried interest (sometimes called "carry") after a liquidation event (the balance of funds are returns to Limited Partners who provided the capital). This means that the firm receives 20% of all profits, though some top performing funds command higher fees and "carry".

Venture capital firms make the majority of their money on a small number of their investments. Almost 70% of VC-backed start-ups fail to create a profitable exit for their VC investors.[12] It is estimated that less than 1% of ventures eventually reach "Unicorn" status – i.e. a privately-owned start-up with a valuation over $1 billion.[13] As Marc Andreessen, co-founder and general partner at Andreessen-

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7. G. Teare, *Global VC Report 2020: Funding and Exits Blow Past 2019 Despite Pandemic Headwinds,* Crunchbase, 2021, news.crunchbase.com/news/global-2020-funding-and-exit.

8. *State of the Venture Capital Industry in 2019*, www.toptal.com/finance/venture-capital-consultants/state-of-venture-capital-industry-2019.

9. *State of the Venture Capital Industry in 2019*, www.toptal.com/finance/venture-capital-consultants/state-of-venture-capital-industry-2019.

10. *State of the Venture Capital Industry in 2019*, www.toptal.com/finance/venture-capital-consultants/state-of-venture-capital-industry-2019. That said, other sources estimate approximately 1,300 VC firms in the United States. See W. Gornall and I. Strebulaev, *The Economic Impact of Venture Capital,* Stanford University Graduate School of Business Research Paper No. 15-55, 2015, papers.ssrn.com/sol3/papers.cfm?abstract_id=2681841.

11. Looking specifically at Europe, the top five countries by venture capital deal volume in 2019 were the UK (33% of deal volume), Germany (10%), France (10%), Sweden (7%) and Spain (6%). See G. Teare and S. Kunthara, *European Venture Report: VC Dollars Rise in 2019,* Crunchbase News, 2020, news.crunchbase.com/news/european-venture-report-vc-dollars-rise-in-2019.

12. *Venture Capital Funnel Shows Odds Of Becoming A Unicorn Are About 1%*, CB Insights, 2018, www.cbinsights.com/research/venture-capital-funnel-2.

13. *Venture Capital Funnel Shows Odds Of Becoming A Unicorn Are About 1%*, www.cbinsights.com/research/venture-capital-funnel-2/ https://www.cbinsights.com/research/venture-capital-funnel-2.

Horowitz (the seventh largest global VC firm based on the VCJ 50 2020 rankings) explained: "The whole structure of how the technology industry gets funded – by venture capitalists, angel investors, and Wall Street – is predicated on the baseball model. Out of ten swings at the bat, you get maybe seven strikeouts, two base hits, and if you are lucky, one home run. The base hits and the home runs pay for all the strikeouts."[14] To illustrate how this works, consider the following. The VC firm Accel Partners invested $12.7 million in Facebook in 2005 in return for approximately 10% of the then-start-ups equity. The firm then made over $9 billion when Facebook went public in 2012.[15]

That said, venture capital firms are quite selective in determining which start-ups to support. In 2016 a group of professors at Harvard, the University of British Columbia, the University of Chicago and Stanford conducted a survey of 889 primarily US-based venture capitalists and found that "for each deal in which a VC firm eventually invests or closes, the firm considers roughly 100 potential opportunities."[16]

Venture capital funding is done in stages: Seed, Series A, B, C, D, etc. New investors typically join at each stage. According to a report by CB Insights: "The average VC-backed start-up goes through multiple rounds of funding in its lifetime. At the initial or seed stage, most of the capital is allocated to developing the minimum viable product (MVP)…At the early stages [e.g. Series A, B funding], capital is used for growth: developing the product, discovering new business channels, finding customer segments, and expanding into new markets. At the later stages [e.g. Series C and after], the start-up continues to scale revenue growth, although it may not yet be profitable…In the final stages of the cycle, the company exists through a public offering of an M&A [merger and acquisition] transaction, and shareholders have the opportunity to realize gains from their equity ownership."[17]

A late-stage venture at the time of its buyout or IPO may have 25+ investors. Some VC investors have a large enough stake in a portfolio company to take a board seat in the company and engage in "active management" of the company.

Venture capital firms receive money for their funds from large institutions and wealthy individuals, who serve as Limited Partners (LPs) to venture capital funds;[18] the venture capitalists who manage VC funds are often referred to as General Partners (GPs).[19] Some of the most active Limited Partners which make allocations to venture capital funds include development finance institutions (DFIs), pension funds, sovereign wealth funds, private equity fund of funds and government agencies (especially in Europe).[20]

Venture capital funding is primarily focused on technology companies (especially those working on software, mobile and telecommunications) and healthcare. For instance, in the First Quarter of 2021 (January – March), 59% of all VC funding in the US went to software companies, as well as companies working in the mobile and telecommunications sector, with another 19% going to companies working on healthcare.[21]

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14. M. Andreesseen, *Bubbles on the brain*, blog.pmarca.com, 2007, web.archive.org/web/20080229062628/http://blog.pmarca.com/2007/06/bubbles_on_the_.html.

15. *What Is Venture Capital?,* CB Insights, 2020, cbinsights.com/research/report/what-is-venture-capital/#what_is.

16. P. Gompers, W. Gornall, S. Kaplan and I. Strebulaev, *How Do Venture Capitalists Make Decisions,* Stanford University Graduate School of Business Research Paper No. 16-33, 2016, papers.ssrn.com/sol3/papers.cfm?abstract_id=2801385.

17. *What Is Venture Capital?,* cbinsights.com/research/report/what-is-venture-capital/#what_is.

18. See M. Ramsinghani, *Limited Partners 101,* The Business of Venture Capital, thebusinessofvc.com/blog/limited-partners-101: "Capital flows into venture capital funds from pension funds, university endowments, foundations, finance companies, and high-net-worth individuals. Such investors in venture funds are called limited partners (LPs). The word 'limited' asserts their passive role with 'limited' say in a fund's operational activities."

19. See P. Sun, *Venture Capital 101: Structure, Returns, Exit and Beyond,* SoGal Ventures, 2015, medium.com/sogal-advantures/venture-capital-101-structure-returns-exit-and-beyond-2048f22247a5: "General Partner (GP) is the venture capital partner of the management company. GPs raise and manage venture funds, set and make investment decisions, and help their portfolio companies exit, because they have a fiduciary responsibility to their Limited Partners."

20. For a list of the world's largest LPs see: *Prequin Special Report: The Venture Capital Top 100,* Prequin, 2017, docs.preqin.com/reports/Preqin-Special-Report-Venture-Capital-Top-100-Report.pdf.

21. See www.statista.com/statistics/277506/venture-caputal-investment-in-the-united-states-by-sector. For comparison, in the Fourth Quarter of 2020 (October – December), 53% of all VC funding in the US went to software companies, as well as companies working in the mobile and telecommunications sector, with another 23% going to companies working on healthcare.

4. VENTURE CAPITAL'S HUMAN RIGHTS RESPONSIBILITIES

Companies have a responsibility to respect all human rights wherever they operate in the world and throughout their operations. This is a widely recognised standard of expected conduct as set out in international business and human rights standards including the UN Guiding Principles on Business and Human Rights (UN Guiding Principles) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines).[22] This corporate responsibility to respect human rights is independent of a State's own human rights obligations and exists over and above compliance with national laws and regulations protecting human rights.[23]

The responsibility to respect human rights requires companies to avoid causing or contributing to human rights abuses through their own business activities, and address impacts in which they are involved, including by remediating any actual abuses. It also requires companies to seek to prevent or mitigate adverse human rights impacts directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.[24]

The UN Guiding Principles establish that to meet their corporate responsibility to respect, companies should have in place an ongoing and proactive human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights. When conducting human rights due diligence, a company may identify that it may cause or contribute to – or already be causing or contributing to – a serious human rights abuse. In these cases, companies must cease or prevent

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22. This responsibility was expressly recognized by the UN Human Rights Council on 16 June 2011, when it endorsed the UN Guiding Principles on Business and Human Rights, and on 25 May 2011, when the 42 governments that had then adhered to the Declaration on International Investment and Multinational Enterprises of the OECD unanimously endorsed a revised version of the *OECD Guidelines for Multinational Enterprises*. See *Human Rights and Transnational Corporations and other Business Enterprises,* Human Rights Council, Resolution 17/4, UN Doc A/HRC/RES/17/4, 6 July 2011; OECD Guidelines for Multinational Enterprises, OECD, 2011, www.oecd.org/corporate/mne.

23. UNGPs, Principle 11 including Commentary.

24. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011) UN Doc HR/PUB/11/04, UN Office of the High Commissioner for Human Rights, Principles 11 and 13 including Commentary, www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

the adverse human rights impacts.[25] Where impacts are outside of the business enterprise's control but are directly linked to their operations, products or services through their business relationships, the UN Guiding Principles require the company to seek to mitigate the human rights impact by exercising leverage, or seek to improve leverage where leverage is limited, including through collaboration if appropriate.

HUMAN RIGHTS DUE DILIGENCE AND THE UN GUIDING PRINCIPLES

Principles 17 to 20 describe the human rights due diligence responsibilities of corporate actors. These include:

17. In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

a. Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;

b. Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;

c. Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.

18. In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

a. Draw on internal and/or independent external human rights expertise;

b. Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

19. In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

25. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011), www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. Principle 19 states that "In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action." According to the Commentary on Principle 19, "Where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm. Where a business enterprise has not contributed to an adverse human rights impact, but that impact is nevertheless directly linked to its operations, products or services by its business relationship with another entity, the situation is more complex. Among the factors that will enter into the determination of the appropriate action in such situations are the enterprise's leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights consequences… If the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors. There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so."

a. Effective integration requires that:

(i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;

(ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.

b. Appropriate action will vary according to:

(i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;

(ii) The extent of its leverage in addressing the adverse impact.

20. In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:

a. Be based on appropriate qualitative and quantitative indicators;

b. Draw on feedback from both internal and external sources, including affected stakeholders]

In the financial sector, a relationship between an investor and investee company including a minority shareholder can be considered a "business relationship" under the OECD Guidelines. The UN Office of the High Commissioner for Human Rights has further clarified that the UN Guiding Principles apply to "institutional investors," and further that venture capital firms are, for the purposes of the UN Guiding Principles, considered to fall under the definition of "institutional investors."[26]

Thus, to meet their corporate responsibility to respect under the UN Guiding Principles, a VC firm must undertake proactive and ongoing human rights due diligence to avoid causing or contributing to human rights abuses through their operations and business activities and seek to prevent or mitigate impacts to which they are directly linked through their business relationships. In practice, human rights due diligence entails identifying human rights impacts linked to their operations and investments (both potential and actual), taking effective action to prevent and mitigate against them, and being transparent about their efforts in this regard.[27] This includes addressing high-level risks of adverse human rights impacts prevalent within a sector because of its characteristics. Principle 18 states that an impact could be potential (that is, a risk) or actual (that is, it has happened). This is not a one-off responsibility, but an ongoing and proactive process.[28]

For venture capital funds, this responsibility applies to their decisions about the sectors on which to focus, and which companies they choose to invest in. Venture capital firms must undertake human rights due diligence to assess the potential or actual human rights impacts of the companies they choose to support through financial investments – i.e. the potential or actual impacts of those

26. *Scope and applications of 'business relationships' in the financial sector under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/global-forum/GFRBC-2014-financial-sector-document-2.pdf. According to the OECD, "It is interpretive guidance regarding the applicability of the UNGPs by minority shareholders, the OHCHR therefore concludes that (minority) shareholdings of institutional investors constitute a business relationship." See also *UNGPs 10+ and UN B-Tech dialogue on investment and human rights,* OHCHR B-Tech, 2020, www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/ConceptNote_UNGP10_BTech.pdf, which clarifies that "[T]he term institutional investor's refers to institutions invested in public equities, fixed income, and private equities, including venture capital funds."

27. UN Guiding -Principles, Principles 15 and 17.

28. UNGPS, Principle 18

companies' actions and / or products. According to the OECD, investors should integrate responsible business conduct [RBC] requirements into their investment mandates, establish clear RBC conditions prior to investing (e.g. prohibiting investments in certain sectors), and screening potential investments to identify companies with significant risk.[29]

An investor's human rights responsibilities continue after making an investment, including monitoring their portfolio companies to identify any new or emerging human rights risks, especially in instances where the business nature of the entity changes through time.[30] Investors, including venture capital firms, should also insist that their investees conduct their own human rights due diligence.[31]

The responsibility to try to prevent and mitigate adverse human rights impacts applies to all venture capital firms that invest in a company. According to the OECD, "The degree of leverage an investor has over the company causing the adverse impact is useful in considering what it can do to persuade that entity to take action, but is not relevant to considering whether the investor should carry out due diligence and effectively exercise any leverage it may have."[32] Once an investor has identified potential or actual adverse impacts, they should engage with their investee company and exert their leverage to mitigate these adverse impacts.[33] In cases where the investor cannot prevent or mitigate the human rights impact identified (either because mitigation attempts have failed, mitigation is not feasible or the adverse impact is severe), then it must avoid or cease undertaking the relevant activity – for instance by ensuring that its funds are ring-fenced and do not finance the rights-abusing activity or, as a last resort, where necessary divesting responsibly from the company in accordance with the UN Guiding Principles.[34] The investor should also publicly and transparently provide information about the steps taken to ensure that divestment was done responsibly taking into consideration and carefully assessing any potential unintended consequences.

Further, in the context of venture capital funds, the level of influence on its investees may at times be of such a significant nature that it constitutes control. According to the OECD, "In private equity, infrastructure and real estate funds, General Partners (GPs) are generally able to exercise more influence than minority shareholders in listed companies. GPs that hold a majority shareholding in a portfolio company or asset control the company."[35] In these situations, "investors may be contributing to impacts caused by their investee companies and may be responsible for remediation. These situations could arise where investors wield significant managerial control over a company, for example, in certain General Partnerships."[36]

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29. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

30. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

31. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

32. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

33. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

34. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf. According to the Guidelines, "Appropriate responses, once actual or potential adverse impacts have been identified, may include… divestment either after failed attempts at mitigation or where the investor deems mitigation not feasible, or due to the severity of the adverse impact."

35. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

36. *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises,* mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf.

5. THE CURRENT STATE OF HUMAN RIGHTS DUE DILIGENCE IN THE VC SECTOR

There is a significant and concerning lack of human rights due diligence within the VC sector. Overall, we were not able to find any evidence of human rights due diligence policies for 83% (44 of a total of 53) of the VC firms and accelerators surveyed.

Only one firm (Atomico) potentially had human rights due diligence processes in place that met the standards set forth by the UN Guiding Principles on Business and Human Rights. An additional eight VC firms and accelerators (15% of all firms surveyed) state that they conduct human rights and / or environmental, social and governance (ESG) due diligence, though they did not provide sufficient information to allow us to determine whether their policies and processes actually met the minimum standards set forth in the UN Guiding Principles.

It is important to note that a failure to carry out adequate due diligence is a failure of the corporate responsibility to respect human rights. Therefore, all VC firms that have not provided evidence of a human rights due diligence process that meets the standards set forth in the UN Guiding Principles are failing in their responsibility to respect human rights.

Atomico's publicly available ESG Policy enumerates the specific factors it covers, including human rights.[37] Atomico has a dedicated ESG and Diversity Taskforce, which reports to the firms Executive Committee. Atomico then screens potential investees as against ESG-related risks, including the use of external experts to perform additional ESG due diligence when necessary. According to the firm's ESG policy, "If the Investment Committee concludes that the ESG risks related to a potential investment are too great and/or cannot be appropriately mitigated in a reasonable timeframe, no investment is made."[38] In their response letter to Amnesty International, Atomico clarified that "From a human

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37. *Atomico ESG Policy,* Atomico, www.atomico.com/esg-policy, which states "As of the date of this ESG Policy, Atomico currently includes the following factors within our definition of ESG:

- *Environmental factors:* the pollution and contamination of land, air and water, and related legal and regulatory compliance; eco-efficiency; waste management; management of scarce natural resources; climate change impacts; biodiversity; and the development of new technologies, products and markets e.g. 'green' / sustainable products and services.
- *Social factors:* the treatment of employees including their pay; health and safety; labour conditions; human rights; any form of discrimination, harassment or victimization; diversity and inclusion, supply chain management; and the treatment of all stakeholders including customers and communities.
- *Governance factors:* anti-bribery and corruption measures; business ethics; accountability; transparency; conflicts of interest; whistle-blowing; control mechanics; and the governance of environmental and social factors."

38. *Atomico ESG Policy,* www.atomico.com/esg-policy.

rights perspective, Atomico will also specifically not invest in any companies that: have contributed to systemic denial of human rights; show pattern of engaging in child labour or forced labour; [and] demonstrate a pattern of non-compliance with environmental regulations."[39] Atomico also supports their portfolio companies to improve their own ESG due diligence performance, monitors their portfolio companies ESG performance, and also provides ESG information to their Limited Partners.[40] Finally, Atomico has launched a Conscious Scaling Program, "focused on identifying and mitigating long-term risks associated with the business model or technology's impact on society, the environment, and all stakeholders, including human rights risks."[41] Atomico also stated that they have in fact passed on investments due to potential negative ESG impacts.[42]

That said, while they have shared with Amnesty International some information on investments they have decided to forego, they have not fulfilled the requirement to publicly account for how they address real and potential human rights impacts of their investments. To meet this requirement, they would need to provide regular public reports, including more granular information on what specific risks they have identified related to potentially problematic investments, as well as their analysis of these risks. To that end, they have not provided enough detail to let us say for certain that they meet the standards set forth in the UN Guiding Principles, and they have not met the relevant public reporting requirements.

Based on our desk research and responses to our letters, eight other firms have – or are developing – ESG policies. These include 500 Startups,[43] Cathay Innovation,[44] EQT Ventures,[45] Insight Partners,[46] Norwest Venture Partners,[47] Sapphire Ventures,[48] Sinovation Ventures and Techstars.[49] Based on the information provided, however, we were not able to determine whether these ESG policies meet the human rights due diligence standards set out in the UN Guiding Principles.

1. The tech accelerator 500 Start-ups has a publicly available ESG policy, the purpose of which is four-fold: "Account for material risks and potential opportunities which may make the business more or less attractive for investment; Advise companies on ESG value creation opportunities; Encourage the building of diverse and inclusive teams; [and] Contribute to the achievement of the UN Sustainable Development Goals."[50] 500 Start-ups uses a pre-selection questionnaire to determine whether companies are "operating in line with UN Global Compact Principles."[51] 500 Start-ups also works with portfolio companies to help develop their ESG policies, and documents their performance "including annual updates to company responses to the screening questionnaire."[52] The screening questionnaire covers some human rights issues (e.g. labor rights), but not all. For instance, the 2020 ESG report states that "we take into account how companies

39. See Atomico Response Letter, Appendix 3.

40. *Atomico ESG Policy,* www.atomico.com/esg-policy.

41. See Atomico's Response Letter, Appendix 3.

42. See Atomico's Response Letter, Appendix 3.

43. 500 Startups did not response to Amnesty International's letter seeking further information. All information in the analysis is taken from their publicly available ESG materials; see, e.g. *2020 ESG Report,* 500 Startups, 2020, drive.google.com/file/d/1KSTUaJwzsQPEmXHSX9rY2ZIzxvDZBdGJ/view

44. Cathay Innovation did not response to Amnesty International's letter seeking further information. All information in the analysis is taken from their publicly available ESG materials; see, e.g. *Cathay Innovation ESG Policy,* cathayinnovation.com/esg-policy.

45. See Appendix 4 for EQT's Response Letter.

46. See Appendix 5 for Insight Partners' Response Letter.

47. See Appendix 6 for Norwest Venture Partners' Response Letter.

48. See Appendix 7 for Sapphire Ventures' Response Letter.

49. See Appendix 8 for TechStars' Response Letter.

50. *The Global Flagship Fund ESG Policy,* 500 Startups, 500.co/esg.

51. *The Global Flagship Fund ESG Policy,* 500.co/esg.

52. *The Global Flagship Fund ESG Policy,* 500.co/esg.

are addressing data privacy and compliance issues," yet the screening questionnaire does not include privacy.[53]

2. Cathay Innovation has a publicly accessible ESG Policy, stating that its ESG criteria are informed by the Universal Declaration of Human Rights, the United Nations Sustainable Development Goals, the Principles of Responsible Investment, The Commonwealth Development Corporation standards, the conventions of the International Labor Organization, The Rio Declaration on Environment and Development, and the United Nations Convention against Corruption.[54] Cathay Innovation has a detailed due diligence process, including an initial screen to ensure that none of their potential investees' activities are on Cathay Innovation's Exclusion List.[55] Cathay Innovation then conducts an initial review and investigation of any publicly available information regarding adverse impacts on local communities or the environment. If potential investees pass this stage, then Cathay Innovation uses "qualified, independent, external experts" to conduct further ESG due diligence.[56] This report contains an assessment based on the Commonwealth Development Corporation's criteria and sector profiles, which include human rights due diligence. Cathay Innovation then monitors their portfolio company ESG performance on an annual basis. However, Cathay Innovation did not provide information that would let us determine the extent to which they have actually implemented this policy, especially as regards whether they have passed on investments due to human rights concerns and, if so, under what circumstances.

3. EQT's Responsible Investment and Ownership Policy clarifies that the firm is a signatory to the UN Principles for Responsible Investment, and states that "EQT continuously maintains and aligns its responsible investment and ownership approach with various international conventions, standards and guidelines such as, but not limited to, the Ten Principles of the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the UNDP powered Sustainable Development Goals Impact and TCFD (Task Force on Climate-related Financial Disclosures)."[57] The policy specifically includes human rights as part of their broader ESG standards.[58] EQT takes into account "material sustainability standards" as part of their investment analysis, and states that "EQT avoids investing in companies whose products, services or practices cause environmental or social harm and where there is no path to mitigate these negative impacts and transform the business into a positive contributor to society."[59] EQT also engages with portfolio companies to improve their ESG performance, "continuously monitors the portfolio companies sustainability practices and ESG performance," and reports on ESG performance to the firm's Limited Partners.[60] EQT's ESG policy is overseen by the firm's Head of Sustainability. However, EQT did not provide information that would let us determine the extent to which they have actually implemented this policy, especially as regards whether they have passed on investments due to human rights concerns and, if so, under what circumstances.

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53. *2020 ESG Report,* 500 Startups, 2020, drive.google.com/file/d/1KSTUaJwzsQPEmXHSX9rY2ZIzxvDZBdGJ/view.

54. *Cathay Innovation ESG Policy,* cathayinnovation.com/esg-policy.

55. *Cathay Innovation ESG Policy,* cathayinnovation.com/esg-policy. The full ESG Policy and Exclusions are included in Appendix 4.

56. *CDC ESG Toolkit: Human Rights, Commonwealth Development Corporation,* toolkit.cdcgroup.com/esg-topics/human-rights.

57. *Responsible Investment and Ownership Policy,* EQT, www.eqtgroup.com/globalassets/sustainability/eqt-responsible-investment-and-ownership-policy.pdf. See also EQT's Response Letter, Appendix 5.

58. *Responsible Investment and Ownership Policy,* EQT, www.eqtgroup.com/globalassets/sustainability/eqt-responsible-investment-and-ownership-policy.pdf. "EQT aims to promote sustainable practices and as such sound ethical and appropriate ESG standards in the portfolio companies that the EQT funds own or have an interest, including… Complying with international conventions on human rights, including supporting the elimination of child or forced labour in their own operations and in the supply chain."

59. *Responsible Investment and Ownership Policy,* www.eqtgroup.com/globalassets/sustainability/eqt-responsible-investment-and-ownership-policy.pdf.

60. *Responsible Investment and Ownership Policy,* www.eqtgroup.com/globalassets/sustainability/eqt-responsible-investment-and-ownership-policy.pdf.

4. In their response to Amnesty International's letter, Insight Partners responded that they "consider ESG issues when reviewing investment opportunities, during due diligence, and in the course of monitoring existing investments…In addition, in 2015, Insight adopted the Guidelines for Responsible Investment set forth by the American Investment Council ("AIC") guiding principles for responsible investment, addressing environmental, public health, safety, labor, governance and social issues. In addition, Insight's Code contain[s] policies and procedures addressing foreign corrupt practices and anti-bribery, anti-money laundering and know-your-client issues." The AIC guiding principles call on member firms to "[r]espect the human rights of those affected by their investment activities and seek to confirm that their investments do not flow to companies that utilize child or forced labor or maintain discriminatory policies."[61] Insight Partners also has a dedicated ESG Committee, to set the firm's ESG priorities and review ongoing ESG activities.[62] They then use an external, third-party ESG advisor to help them "conduct comprehensive due diligence and evaluations of ESG risks on all new portfolio investments. Insight integrates these diligence findings into its investment thesis and factors them into its investment decision."[63] Once Insight Partners has made an investment, they continuously engage with their portfolio company's management team on ESG-related issues.[64] That said, without further information about whether their ESG factors include human rights concerns, and the extent to which this policy has been operationalized, it is impossible to say whether this due diligence process meets the standards set out in the UN Guiding Principles.
5. Sinovation Ventures has a publicly accessible ESG Policy – however, this policy does not detail what specific environmental, social and governance standards they take into account in their investment decision-making process, in particular the extent to which these standards incorporate human rights concerns.[65] Their ESG Policy also states that the firm "monitor[s] these issues in most of our portfolio companies," yet does not provide any details about how such monitoring takes place.
6. Norwest Venture Partners does not have any specific environmental, social and governance policies, nor a specific policy with regards to human rights. That said, in their response letter to Amnesty International, they note that "Norwest's pre-investment screening and diligence process is extensive. While Norwest does not have a particular process through which to specifically screen human rights diligence matters, the legal, technical and business due diligence performed by our investment teams is thorough and would reasonably be expected to uncover any human rights abuses perpetrated by a company being screened. In some circumstances, Norwest also employs the use of background checks and other processes through which to further analyze the leadership of its portfolio companies." The information provided by Norwest Venture Partners, however, is insufficient to determine whether their due diligence processes meet the standards set by the UN Guiding Principles.
7. In their response to Amnesty International, the tech accelerator Techstars noted that "Techstars demonstrates its commitment to human rights through its robust Code of Conduct that all founders, partners, employees, and members of our network are required to follow."[66] The Code

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61. *Guidelines for Responsible Investment,* American Investment Council, 2009, www.investmentcouncil.org/guidelines-for-responsible-investing.

62. A. Prodromos, *Growing with ESG: A ScaleUp Investor's Approach to Responsible Investing,* Insight Partners, 2021, www.insightpartners.com/blog/growing-with-esg-a-scaleup-investors-approach-to-responsible-investing.

63. *Growing with ESG: A ScaleUp Investor's Approach to Responsible Investing,* www.insightpartners.com/blog/growing-with-esg-a-scaleup-investors-approach-to-responsible-investing.

64. *Growing with ESG: A ScaleUp Investor's Approach to Responsible Investing,* www.insightpartners.com/blog/growing-with-esg-a-scaleup-investors-approach-to-responsible-investing.

65. ESG Policy, Sinovation Ventures, www.sinovationventures.com/index.php/home/investment/declaration.html.

66. See TechStars Response Letter, Appendix 8.

of Conduct, however, does not include any specific mention of human rights, nor does it describe their due diligence processes.[67]

8. Finally, Sapphire Ventures does not have an explicit human rights policy, though they noted in their response to Amnesty International that they are in the process of developing an ESG policy.

This lack of human rights due diligence stands in contrast to the extensive financial due diligence that VC firms – especially firms that invest in latter-stage companies – usually undertake. Most venture capital firms have a multi-stage investment process. The 2016 survey of 889 venture capitalists mentioned above found that:

"When a member of the VC firm generates a potential deal, the opportunity is first considered by the individual originator (who could be a senior partner, a junior partner, an associate, or an affiliated member such as a venture partner). If the investment shows potential from this initial evaluation, a VC firm member will meet the management of the potential portfolio company at least once. If the VC firm member continues to be impressed with the potential investment, he or she will bring the company to other members of the VC firm for the review. Potential investments will then be scrutinised and evaluated by the other partners at the VC firm, a process that can itself take many forms. After this approval, the other partners at the VC firm will start a more formal process of due diligence (e.g., calling more references, conducting industry analysis and peer comparison). If the company passes the due diligence process, the VC firm will present a term sheet that summarizes the VC's conditions for a financing. Finally, if the company agrees to the term sheet, legal documents are drafted, a letter of commitment is signed, and the deal closes."[68]

The authors conclude that: "VCs devote substantial resources to conducting due diligence on (i.e., investigating) their investments. The average deal takes 83 days to close; the average firm spends 118 hours on due diligence over that period and the average firm calls 10 references."[69]

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67. *Code of Conduct,* TechStars, www.techstars.com/code-of-conduct.

68. *How Do Venture Capitalists Make Decisions,* papers.ssrn.com/sol3/papers.cfm?abstract_id=2801385.

69. *How Do Venture Capitalists Make Decisions,* papers.ssrn.com/sol3/papers.cfm?abstract_id=2801385.

6. THE HUMAN RIGHTS IMPACT OF THE LACK OF VC DUE DILIGENCE

Technology in general, and the software sector in particular, have an outsized impact on all facets of our lives. As venture capitalist Marc Andreessen proclaimed back in 2011, "software is eating the world." According to Andreessen, "we are in the middle of a dramatic and broad technological and economic shift in which software companies are poised to take over large swathes of the economy. More and more major businesses and industries are being run on software and delivered as online services — from movies to agriculture to national defense. Many of the winners are Silicon Valley-style entrepreneurial technology companies that are invading and overturning established industry structures. Over the next 10 years, I expect many more industries to be disrupted by software, with new world-beating Silicon Valley companies doing the disruption in more cases than not."[70]

Venture capital is one of the engines driving this process. VC-funded start-ups seek to "disrupt" industries as disparate as advertising, education, energy, finance, health, the media, transportation and others. VC-funded companies created the very concept of social media. This process – of software eating the world – is neither good nor bad in and of itself; what is concerning in the context of this briefing is the extent to which those venture capitalists responsible for shaping this process have to a great extent ignored the broader societal impacts of their actions, especially when it comes to how their funding decisions impact our human rights.

The almost complete lack of any human rights due diligence processes amongst the world's largest venture capital firms examined by Amnesty International has three significant impacts. First, and most immediately, it means that venture capital firms may invest in companies whose products and services are implicated in human rights abuses.

For instance, Amnesty International and other human rights organizations have documented the "severe and wide-ranging repression" of Uyghurs and other ethnic minorities in the Xinjiang Uyghur Autonomous Region (Xinjiang) by the Chinese government, which since 2017 has arbitrarily detained an estimated one million people in Xinjiang and held them without trial.[71]

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70. M. Andreessen, *Why Software Is Eating the World,* Andreessen Horowitz, 2011, a16z.com/2011/08/20/why-software-is-eating-the-world.

71. *Everything you need to know about human rights in China,* Amnesty International, 2020, www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china. See also: *Hearts. And Lives Broken: The Nightmare of Uyghur Families Separated by Repression,* Amnesty International (Index: ASA 17/3798/2021), www.amnesty.org/en/latest/research/2021/03/the-nightmare-of-uyghur-families-separated-by-repression and *Like We Were Enemies in a War: China's Mass Internment, Torture and Prosecution of Muslims in Xinjiang,* Amnesty International (Index: ASA 17/4137/2021), xinjiang.amnesty.org.

A recent Amnesty International report found that “the government of China has carried out massive and systematic abuses against Muslims living in [Xinjiang]. The human suffering has been immense. Huge numbers of men and women from predominantly Muslim ethnic groups have been arbitrarily detained and sent to internment camps or prison. The internment camp system is part of a larger campaign of subjugation and forced assimilation of ethnic minorities in Xinjiang…The evidence Amnesty International has gathered provides a factual basis for the conclusion that the Chinese government has committed at least the following crimes against humanity: imprisonment, torture, and persecution.”[72]

As part of this system of repression, the Chinese government has created a comprehensive surveillance infrastructure across Xinjiang,[73] relying in part on facial recognition services provided by VC-backed technology companies like Megvii and SenseTime.[74] In 2016 Chinese-based VC firms Sinovation Ventures and Qiming Venture Partners invested in Megvii,[75] while in 2018 US-based VC firm Tiger Global Management invested in SenseTime.[76]

Similarly, the Israeli Government continues to impose “institutionalised discrimination” against Palestinians living under its rule in Israel and the Occupied Palestinian Territories (OPT), including in the West Bank.[77] The Israeli Government has contracted with AnyVision, an Israeli-based facial recognition company, to assist with military surveillance throughout the West Bank.[78] According to a report by NBC News, “AnyVision’s technology powers a secret military surveillance project throughout the West Bank…The addition of facial recognition technology transforms passive camera surveillance combined with the list of suspects into a much more powerful tool.”[79]

Yet despite this fact, US-based venture capital firm Lightspeed Venture Partners has participated in two rounds of funding for AnyVision, in 2019 and most recently in September 2020.[80]

Second, it means ignoring the clear harm posed by specific business models. For instance, the surveillance-based business model of companies like Google and Facebook requires the companies to collect ever-more – and ever-more personal – data on their users, which they then use to sell targeted advertisements on their platforms.[81] As of 2019, 84% of Google’s revenue and 98% of Facebook’s

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72. *Like We Were Enemies in a War: China’s Mass Internment, Torture and Prosecution of Muslims in Xinjiang,* Amnesty International (Index: ASA 17/4137/2021), xinjiang.amnesty.org.

73. M. Wang, *China’s Algorithms of Repression: Reverse Engineering a Xinjiang Police Mass Surveillance App,* Human Rights Watch, 2019, www.hrw.org/report/2019/05/01/chinas-algorithms-repression/reverse-engineering-xinjiang-police-mass.

74. R. Mac, R. Adams and M. Rajagopalan, *US Universities and Retirees Are Funding The Technology Behind China’s Surveillance State,* BuzzFeed News, 2019, www.buzzfeednews.com/article/ryanmac/us-money-funding-facial-recognition-sensetime-megvii. The US Government has also sanctioned both Megvii and SenseTime, stating that “these entities have been implicated in human rights violations and abuses in the implementation of China’s campaign of repression, mass arbitrary detention, and high-technology surveillance against Uighurs, Kazakhs, and other members of Muslim minority groups in the XUAR.” See *Addition of Certain Entities to the Entity List,* Bureau of Industy and Security, US Department of Commerce, 15 CFR Part 744, 2019, s3.amazonaws.com/public-inspection.federalregister.gov/2019-22210.pdf

75. See www.crunchbase.com/organization/megvii-technology/company_financials/investors.

76. See www.crunchbase.com/organization/sensetime/company_financials/investors.

77. *Everything you need to know about human rights in Israel and Occupied Palestinian Territories,* Amnesty International, 2020, www.amnesty.org/en/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/report-israel-and-occupied-palestinian-territories.

78. O. Solon, *Why did Microsoft fund an Israeli firm that surveils West Bank Palestinians,* NBC News, 2019, www.nbcnews.com/news/all/why-did-microsoft-fund-israeli-firm-surveils-west-bank-palestinians-n1072116. According to this article, “The surveillance project was so successful that AnyVision won the country’s top defense prize in 2018.”

79. *Why did Microsoft fund an Israeli firm that surveils West Bank Palestinians,* www.nbcnews.com/news/all/why-did-microsoft-fund-israeli-firm-surveils-west-bank-palestinians-n1072116. See also *US firms said using Israeli tech for controversial facial recognition,* The Times of Israel, 2021, www.timesofisrael.com/us-firms-said-using-israeli-tech-for-controversial-facial-recognition. According to this article, “In 2018, Israeli business newspaper The Marker reported that the IDF uses technology provided by AnyVision at West Bank checkpoints, and in cameras dotting the Palestinian Authority. The cameras and database were being used to identify and track potential Palestinian assailants, the report said.”

80. See www.crunchbase.com/organization/anyvision/company_financials.

81. See *Surveillance Giants: How the Business Model of Google and Facebook Threatens Human Rights* (Index: POL 30/1404/2019), amnesty.org/en/documents/pol30/1404/2019/en.

revenue comes for these ads.[82] As Amnesty International explained in its 2019 report *Surveillance Giants: How the Business Model of Google and Facebook Threatens Human Rights*, "The sheer scale of the intrusion of Google and Facebook's business model into our private lives through ubiquitous and constant surveillance has massively shrunk the space necessary for us to define who we are… surveillance on such a scale represents an unprecedented interference with the right to privacy, that cannot be compatible with the companies' responsibility to respect human rights."[83]

Yet venture capitalists including Tiger Global Management and Sequoia Capital China continue to fund companies today with similar business models, such as TikTok.[84] TikTok is a video-sharing social networking service, on which users can create and share short-form video. TikTok was the most frequently downloaded app worldwide in 2020,[85] with 689 million global users as of January 2021.[86] TikTok is building out a similar self-serve ad model as Google and Facebook, making it easier for advertisers and others who seek to influence to target users.[87] TikTok also recently announced that it will collect more personal data on users, including faceprints and voiceprints.[88]

Similarly, venture capitalists continue to support companies that rely on app-based or "gig workers", who often face exploitative or otherwise abusive work conditions. According to a report by AI Now, "Algorithmic worker management and control systems have also had a severe negative impact on wages across the so-called 'gig economy.' These platforms treat workers as subjects of constant experimentation, often in ways that destabilize their economic and even psychological security…The ability of automated management platforms to manipulate (and arbitrarily cut) wages has been at the heart of worker grievances. Instacart workers report that their earnings decreased precipitously over the last year. Uber and Lyft workers report similar drops. Some researchers allege this is part of a tactic to make workers dependent on the platform for wages, drawing them in with promises of a living wage and flexible working conditions, then severely cutting wages once workers have structured their lives around working for the platform."[89] Prominent VC firms have invested in these and other gig-economy companies.[90]

Court rulings in countries such as the UK, France, Netherlands, Spain and Italy have ruled that gig workers – and in particular ride-share (e.g. Uber) and food-delivery workers (e.g. Glovo and Deliveroo)

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82. A. Panchadar and P. Dave, *Google parent Alphabet's revenue misses estimates, rises at slowest pace in 3 years,* Reuters, 2019, news.trust.org/item/20190429203113-b951z; Facebook, Second Quarter 2019 Results, 2019.

83. *Surveillance Giants: How the Business Model of Google and Facebook Threatens Human Rights,* amnesty.org/en/documents/pol30/1404/2019/en.

84. VC firms including Tiger Global Management and Sequoia Capital China have invested in ByteDance, TikTok's parent company, since 2017. See S. Kunthara, *As Companies Battle for TikTok, A Look Back At Its Funding History,* Crunchbase News, 2020, news.crunchbase.com/news/as-companies-battle-for-tiktok-a-look-back-at-its-funding-history; see also How TikTok Rose to Worldwide Popularity & How It Makes Money, What Is the Business Model Of, 2020, whatisthebusinessmodelof.com/business-models/how-tiktok-makes-money.

85. M. Grothaus, *TikTok beats out Facebook to become the top app worldwide by downloads in 2020,* Fast Company, 2020, fastcompany.com/90584368/tiktok-beats-out-facebook-to-become-the-top-app-worldwide-by-downloads-in-2020.

86. K. Sehl, *23 Important TikTok Stats Marketers Need to Know in 2021,* Hootsuite, 2021, https://blog.hootsuite.com/tiktok-stats/.

87. *How TikTok Rose to Worldwide Popularity & How It Makes Money,* What Is the Business Model Of, 2020, whatisthebusinessmodelof.com/business-models/how-tiktok-makes-money.

88. S. Perez, *TikTok just gave itself permission to collect biometric data on US users, including 'faceprints and voiceprints'*, TechCrunch, 2021, techcrunch.com/2021/06/03/tiktok-just-gave-itself-permission-to-collect-biometric-data-on-u-s-users-including-faceprints-and-voiceprints.

89. Crawford, Kate, Roel Dobbe, Theodora Dryer, Genevieve Fried, Ben Green, Elizabeth Kaziunas, Amba Kak, Varoon Mathur, Erin McElroy, Andrea Nill Sánchez, Deborah Raji, Joy Lisi Rankin, Rashida Richardson, Jason Schultz, Sarah Myers West, and Meredith Whittaker. *AI Now 2019 Report.* New York: AI Now Institute, 2019, ainowinstitute.org/AI_Now_2019_Report.html.

90. Instacart investors include Y Combinator, Sequoia Capital, Andreessen Horowitz, Kleiner Perkins, Tiger Global Management and General Catalyst. See www.crunchbase.com/organization/instacart/company_financials/investors. Uber investors include TechStars, Menlo Ventures, GV, Kleiner Perkins, NEA and Sequoia Capital. See www.crunchbase.com/organization/uber/company_financials/investors. Lyft investors include Founders Fund, Mayfield Fund and Andreessen Horowitz. See www.crunchbase.com/organization/lyft/company_financials/investors.

– should not be treated as independent contractors or self-employed, but instead should be seen as employees and granted the legal protections afforded employees.[91]

Third, the lack of human rights due diligence by venture capital firms means that they are more likely to fund companies developing new technologies that have a significant negative impact on human rights, as long as those technologies promise a positive return on investment. According to a report issued by the Belfer Center for Science and International Affairs at Harvard, "Venture capital firms are investing in frontier technologies with potential to be disruptive to global security, public health, democracy, and many other areas of society—making the need for responsible investment practices urgent."[92] The report listed a number of new and frontier technologies that pose "critical challenges" to society, including artificial intelligence, quantum computing, autonomous vehicles and drones, brain-computer interfaces and gene editing and cognitive enhancement.[93]

Of particular immediate concern is the growing number of start-ups developing and applying artificial intelligence/machine learning (AI/ML) tools across a wide variety of sectors without first ensuring that this technology does not have discriminatory impacts.

The terms "algorithmic bias" and "algorithmic discrimination" refer to how automated, algorithmic decision-making can replicate and amplify existing inequities. Seemingly objective algorithms can be biased by reliance on incomplete or unrepresentative training data, and / or by replicating the unconscious bias of those who developed the algorithms. As Amnesty International and Access now have highlighted in *Toronto Declaration: Protecting the right to equality in machine learning,* "From policing, to welfare systems, to healthcare provision, to platforms for online discourse – to name a few examples – systems employing machine learning technologies can vastly and rapidly reinforce or change power structures on an unprecedented scale and with significant harm to human rights, notably the right to equality. There is a substantive and growing body of evidence to show that machine learning systems, which can be opaque and include unexplainable processes, can contribute to discriminatory or otherwise repressive practices if adopted and implemented without necessary safeguards…Private sector actors that develop and deploy machine learning systems should follow a human rights due diligence framework to avoid fostering or entrenching discrimination and to respect human rights more broadly through the use of their systems."[94]

The potential real-world impact of algorithmic bias is significant. For example, venture capital funding into start-ups working in banking and financial services (often referred to as "fintech") has almost doubled in the last four years, from $23.4 billion in 2017 to $42.3 billion in 2020.[95] Yet as Lael Brainard, a member of the US Federal Reserve Board of Governors noted in a recent speech: "[I]f AI models are built on historical data that reflect racial bias or are optimized to replicate past decisions that may reflect bias, the models may amplify rather than ameliorate racial gaps in access to credit. Along those same lines, the opaque and complex data interactions relied upon by AI could result in discrimination by race, or even lead to digital redlining, if not intentionally designed to address this

91. Amnesty International, B. Černušáková and M. Perolini, Digital platforms are wrong: we don't have to choose between workers' rights and flexibility, Amnesty International, 2021, www.amnesty.org/en/latest/news/2021/03/uber-false-choice-between-workers-rights-and-flexibility.

92. S. Winterburg, L. Manley, K. Ejiofor, A. Jayanti, J. Fridman, S. Lambert and M. Zwierz, *Responsible Investing in Tech and Venture Capital: Advancing Public Purpose in Frontier Technology Companies,* Belfer Center for Science and International Affairs, Harvard Kennedy School, 2020, www.belfercenter.org/sites/default/files/2020-09/ResponsibleInvesting.pdf.

93. *Responsible Investing in Tech and Venture Capital: Advancing Public Purpose in Frontier Technology Companies,* www.belfercenter.org/sites/default/files/2020-09/ResponsibleInvesting.pdf.

94. Amnesty International and Access Now, *The Toronto Declaration: Protecting the right to equality in machine learning,* 2018, www.torontodeclaration.org.

95. *Pulse of Fintech H2'20,* KPMG, 2021, assets.kpmg/content/dam/kpmg/xx/pdf/2021/02/pulse-of-fintech-h2-2020.pdf.

risk."[96] This concern was mirrored by the US Federal Trade Commission, which noted that "[c]avalier use of AI could result in discrimination against a protected class."[97]

We see a similar pattern in venture capital funding to start-ups working in the health sector, which almost doubled over the past two years, from $7.4 billion in 2019 to over $14 billion in 2020.[98] Yet the same issues around bias persist. According to a 2019 study by researchers from the University of California – Berkeley, Brigham and Women's Hospital, Massachusetts General Hospital and the University of Chicago: "Health systems rely on commercial prediction algorithms to identify and help patients with complex health needs. We show that a widely used algorithm, typical of this industry-wide approach and affecting millions of patients, exhibits significant racial bias: At a given risk score, Black patients are considerably sicker than White patients, as evidenced by signs of uncontrolled illnesses. Remedying this disparity would increase the percentage of Black patients receiving additional help from 17.7 to 46.5%. The bias arises because the algorithm predicts health care costs rather than illness, but unequal access to care means that we spend less money caring for Black patients than for White patients. Thus, despite health care costs appearing to be an effective proxy for health by some measures of predictive accuracy, large racial biases arise."[99]

These concerns are not limited to the private sector, as more start-ups begin to sell AI/ML tools and services to the public sector, including law enforcement.[100] Facial recognition technology (FRT) is of particular concern. FRT can create a means to identify and categorize people at scale based on their physical features, including observations or inferences of protected characteristics – for example, race, ethnicity, gender, age, disability status. The use of this technology by police raises two issues. First, FRT algorithms have been proven to be less accurate at identifying people of colour, and in particular women of colour. MIT researcher Joy Buolamwini discovered that commercial facial recognition algorithms were far more likely to misidentify people of colour, and especially women of colour, compared to white men, as the data used to train the algorithms over-represented images of white males.[101]

Second, as Amnesty International noted in its call to ban police use of this technology, "FRT entails widespread bulk monitoring, collection, storage, analysis or other use of material and collection of sensitive personal data (biometric data) without individualized reasonable suspicion of criminal wrongdoing – which amounts to indiscriminate mass surveillance. Amnesty International believes that indiscriminate mass surveillance is never a proportionate interference with the rights to privacy, freedom of expression, freedom of association and of peaceful assembly."[102]

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96. L. Brainard, *Supporting Responsible Use of AI and Equitable Outcomes in Financial Services,* Speech at the AI Academic Symposium hosted by the Board of Governors of the Federal Reserve System, Washington, D.C., 2021, www.federalreserve.gov/newsevents/speech/brainard20210112a.htm.

97. A. Smith, *Using Artificial Intelligence and Algorithms,* Federal Trade Commission, 2020, www.ftc.gov/news-events/blogs/business-blog/2020/04/using-artificial-intelligence-algorithms.

98. P. Micca, C. Chang, S. Gisby, M. Shukla, *Trends in health tech investments: Funding the Future of Health,* Deloitte Insights, 2021, www2.deloitte.com/us/en/insights/industry/health-care/health-tech-private-equity-venture-capital.html.

99. Z. Obermeyere, B. Powers, C. Vogeli, S. Mullainathan, *Dissecting racial bias in an algorithm used to manage the health of populations,* Science, 2019, science.sciencemag.org/content/366/6464/447.

100. S. Wray, *Pandemic is driving a govtech investment boom, says new report,* Cities Today, 2021, cities-today.com/pandemic-is-driving-a-govtech-investment-boom-says-new-report.

101. Hardesty, Larry, *Study finds gender and skin-type bias in commercial artificial-intelligence systems,* MIT News, 2018 at news.mit.edu/2018/study-finds-gender-skin-type-bias-artificial-intelligence-systems-0212.

102. Amnesty International, *Amnesty International Calls for Ban on the Use of Facial Recognition Technology for Mass Surveillance,* 2020, www.amnesty.org/en/latest/research/2020/06/amnesty-international-calls-for-ban-on-the-use-of-facial-recognition-technology-for-mass-surveillance.

Yet this has not stopped police departments around the world from using facial recognition tools, including those provided by venture capital-backed companies like Clearview AI.[103] According to the New York Times, more than 600 law enforcement agencies began using Clearview AI's facial recognition tool between 2019 and 2020.[104] It reported that: "Federal and state law enforcement officers said that while they had only limited knowledge of how Clearview works and who is behind it, they had used its app to help solve shoplifting, identity theft, credit card fraud, murder and child sexual exploitation cases."[105]

In light of the human rights impacts of FRT, Amnesty International is calling for a ban on the use, development, production, sale and export of this technology for identification purposes by both state agencies and private sector actors.

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103. See www.crunchbase.com/organization/clearview-ai/company_financials. Clearview AI was initially funded by a small VC firm called Kirenaga Partners, as well as a number of individual ("angel") investors. It subsequently raised $8.6 million in 2020, but did not disclose which firms participated in this most recent round of funding. See also R. Mac and B. Sacks, *Controversial Facial Recognition Firm Clearview AI Raised $8.6 Million,* BuzzFeed News, 2020, www.buzzfeednews.com/article/ryanmac/controversial-clearview-ai-raises-8-million.

104. K. Hill, *The Secretive Company That Might End Privacy as We Know It,* New York Times, 2021, www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html.

105. *The Secretive Company That Might End Privacy as We Know It,* www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html.

7. VENTURE CAPITAL'S LACK OF DIVERSITY

The potential negative impacts of the venture capital firms' lack of human rights due diligence – especially as regards algorithmic bias – are magnified by the sector's lack of diversity. For instance, as of 2020 in the US women comprise only 23% of venture capital investment professionals (i.e. those involved in deciding which startups to fund).[106] The numbers are even worse when it comes to racial diversity – 4% of investment professionals at VC firms are Latinx,[107] and 4% are Black.[108]

The numbers are even more stark for senior positions within the venture capital sector. As of 2020 men comprised 84% of all investment partners (including managing general partners, managing partners, general partners, founding partners and managing directors), while 65% of firms did not have a single female investment partner.[109] Similarly, only 3% of investment partners are Black, while 93% of firms did not have a single Black investment partner, while 4% of investment partners are Latinx, and 90% of firms did not have a single Latinx investment partner.[110]

The situation in the UK is comparable. As of 2019, 70% of those working in venture capital were men. Further, men comprised 80% of all investment roles, 83% of venture capital firms surveyed in the UK lacked a single woman on their investment committees.[111]

The situation is even worse when viewed from an intersectional perspective. According to a 2018 survey, 58% of venture capitalists in the US were white men, 20% were Asian men, 11% were white

106. *NVCA, Venture Forward and Deloitte Human Capital Survey, Third Edition 2021,* www2.deloitte.com/us/en/pages/audit/articles/diversity-venture-capital-human-capital-survey.html.

107. Some of the reports cited in this section use the term "Hispanic," while others use the term "Latina/o" or "Latinx". In order to remain consistent, for this report we use the term "Latinx," a gender-neutral alternative to the pan-ethnic terms Latina, Latino and Hispanic.

108. *NVCA, Venture Forward and Deloitte Human Capital Survey, Third Edition 2021,* www2.deloitte.com/us/en/pages/audit/articles/diversity-venture-capital-human-capital-survey.html. That said, representation by Asia / Pacific Islanders is higher, at 19% of investment professionals.

109. *NVCA, Venture Forward and Deloitte Human Capital Survey, Third Edition 2021,* www2.deloitte.com/us/en/pages/audit/articles/diversity-venture-capital-human-capital-survey.html. An Axios study found similar results: "Only 9.65% of decision-makers at U.S. venture capital firms are women" [with decision-makers defined as "the top level of a firm's investment management"] see D. Primack, *Venture capital is still very much a boy's club,* Axios, 2019, www.axios.com/venture-capital-women-tech-diversity-29c3f2f0-2d1e-4ec5-b542-7878ab149d45.html.

110. *NVCA, Venture Forward and Deloitte Human Capital Survey, Third Edition 2021,* www2.deloitte.com/us/en/pages/audit/articles/diversity-venture-capital-human-capital-survey.html.

111. *Diversity in UK Venture Capital 2019,* Diversity VC, 2019, www.diversity.vc/diversity-in-vc-report.

women, 6% were Asian women, 2% were Black men, 1% are Black women, 1% were Latinx men and less than 1% are Latinx women.[112]

This also has a direct impact on what kinds of start-up founders receive funding, as investment teams that are predominantly white and male are less likely to fund start-ups led by women[113] and people of colour.[114]

The numbers bear this out. In 2018, all-female founding teams received just 2.2% of all US-based venture funding.[115] According to a 2019 report from Crunchbase, "$87 dollars go to male-only founded teams for every $100 invested by VCs. Female-only founded teams are therefore only raising $3 dollars for every hundred dollars spent. Male and female co-founded companies raised $10 dollars for every hundred dollars spent."[116] Further, start-ups with both male and female founders received only 15% of all VC funding.[117] A recent study by academics at Santa Clara University performed an analysis of over 48,000 companies on Crunchbase – according to the study, "[o]ur analysis suggests the presence of bias against women across geographies and industries, which extends not only to female-only but also to mixed gender teams with female CEOs…Our findings show CEO's gender to be the most important founder characteristic for predicting fundraising success[.]"[118] This rate of VC funding is also far lower than one would expect given the overall rates of female entrepreneurship in the US, where almost 20% of all employer firms are women-owned.[119]

There is even less racial diversity in VC funding. Black and Latinx founders received less than 2.3% of all US-based venture capital funding in 2019.[120] Again this is far lower than the overall rates of Black and Latinx entrepreneurship in the US, where over 8% of all employer firms are Black or Latinx-owned.[121]

Again, the problem is more glaring from an intersectional perspective. Black and Latinx female founders received less than 0.5% of all VC funding in 2020.[122] Further, those founders who do receive venture capital funding receive, on average, less than other founders, especially for early stage companies. The size of the median seed round for Black women is $125,000 and for Latinx women is

112. R. Kerby, *Where Did You Go to School,* Noteworthy – The Journal Blog, 2018, blog.usejournal.com/where-did-you-go-to-school-bde54d846188. According to the NVCA, *Venture Forward and Deloitte Human Capital Survey,* in 2020 3% of investment positions were held by Black or Hispanic individuals. See *NVCA, Venture Forward and Deloitte Human Capital Survey, Third Edition 2021,* www2.deloitte.com/us/en/pages/audit/articles/diversity-venture-capital-human-capital-survey.html.

113. *Early Stage Investors Biased Against Women,* papers.ssrn.com/sol3/papers.cfm?abstract_id=2953011.

114. *Venture Capital and Racial Equality: How Attitudes and Actions Are Evolving and What Continues to Hold the Industry Back,* www.morganstanley.com/assets/pdfs/9924258_MS_VC_Funding_Gap_Report_2020.pdf. According to this report: "Traditional VCs are less likely to prioritize or take action toward investing in multicultural-founded companies when compared to women or multicultural VCs."

115. E. Hinchlife, *Funding for Female Founders Stalled a t2.2% of VC Dollars in 2018,* Fortune, 2019, fortune.com/2019/01/28/funding-female-founders-2018

116. *Q3 2019 Diversity Report: Over $20B Invested in Female-Founded, CO-Founded Startups This Year Alone,* news.crunchbase.com/news/q3-2019-diversity-report-over-20b-invested-in-female-founded-co-founded-startups-this-year-alone

117. *NVCA-Deloitte Human Capital Survey,* www2.deloitte.com/content/dam/Deloitte/us/Documents/audit/us-audit-egc-nvca-human-capital-suvey-2018.pdf. Crunchbase found similar figures: "In 2019 through Q3, 13 percent of invested venture capital dollars went to female co-founded startups." See *Q3 2019 Diversity Report: Over $20B Invested in Female-Founded, CO-Founded Startups This Year Alone,* news.crunchbase.com/news/q3-2019-diversity-report-over-20b-invested-in-female-founded-co-founded-startups-this-year-alone

118. C. Cassion, Y. Qian, C. Bossou and M. Ackerman, *Investors Embrace Gender Diversity, Not Female CEOs: The Role of Gender in Startup Fundraising,* Santa Clara University, 2021, www.researchgate.net/publication/348861337_Investors_Embrace_Gender_Diversity_Not_Female_CEOs_The_Role_of_Gender_in_Startup_Fundraising.

119. A. Haitt, *Number of Women-Owned Employer Firms Increased 0.6% from 2017 to 2018,* United States Census Bureau, 2021, www.census.gov/library/stories/2021/03/women-business-ownership-in-america-on-rise.html. According to the Census Bureau, "Women-owned firms made up only 19.9% of all firms that employed people in the United States in 2018 but their numbers are growing."

120. R. Mashayekhi, *Venture capital's quest for diversity and equity remains a work in progress,* Fortune, 2021, fortune.com/2021/04/23/venture-capital-diversity-equity-black-latino-startups-funding.

121. *Annual Business Survey Release Provides Data on Minority-Owned, Veteran-Owned and Women-Owned Businesses,* United States Census Bureau, 2021, www.census.gov/newsroom/press-releases/2021/annual-business-survey.html

122. *Still Building: ProjectDiane 2021 Update,* digital undivided ProjectDiane, 2021, www.digitalundivided.com/reports/still-building-project-diane-2021-update.

$200,000; for comparison, the national median seed round is $2.5 million.[123] The historic numbers are even worse. According to Kapor Capital, "[o]f all VC funding over the past decade, Latinx women-led starts have raised only 0.32 percent while black women have raised only .0006 percent."[124]

Amnesty International was not able to find data on what percentage of VC funding goes to founders with other protected characteristics including sexual orientation, gender identity and disability. However, in 2017, less than 0.5% of all VC funding in the United States went to start-ups building assistive technologies and treatments for those with disabilities.[125]

Similar discriminatory patterns hold true in the UK as well. As of 2017, only 1% of VC funding in the UK went to all-female founding teams, while 89% went to all-male founding teams.[126]

A survey of 1,200 European start-up founders in 2019 found that only 15% of European founders who raised VC funding were women. According to the survey: "Funding for all women teams is actually going down. There is no material improvement in the share of capital invested in European tech companies going to diverse founding teams. In fact, the share of capital invested in companies founded by women decreased in 2019 versus 2018. This means that in 2019, $92 in every $100 invested in Europe went to founding teams that were all men."[127] We were not able to find similar data for Chinese-based venture capital firms.

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123. *The State of Black and Latinx Women Founders,* digital undivided ProjectDiane, 2020, www.digitalundivided.com/reports/projectdiane-2020.

124. C. Worley, *The Venture Capital World Has A Problem With Women Of Color,* Kapor Capital, 2019, www.kaporcapital.com/the-venture-capital-world-has-a-problem-with-women-of-color.

125. This is at best a proxy indicator – there is no reason to assume that founders with disabilities would focus on assistive technologies or treatments for those with disabilities. However, this does show the extent to which the VC sector does not prioritize the needs of the disabled more broadly. According to J. Rowley, *VC Boosts Assistive Tech Startups To Make the World More Accessible,* Crunchbase, 2018, news.crunchbase.com/news/vc-boosts-assistive-tech-startups-to-make-the-world-more-accessible, venture capital firms in the US invested $276.5 million in this sector in 2017. Total US-based VC funding in 2017 was $74.5 billion, according to *Venture Capital Funding Report 2017,* CB Insights, 2018, www.cbinsights.com/research/report/venture-capital-q4-2017.

126. F. Warner, *Ada Ventures thesis*, Ada Ventures, 2019, medium.com/ada-ventures/ada-ventures-thesis-2beec5cc32ca.

127. *State of European Tech 2019,* 2019.stateofeuropeantech.com/chapter/diversity-inclusion/article/state-di-european-tech. A follow-on survey in 2020 found that "Men-only teams captured 91% of all capital raised[.]" See State of European Tech 2020, Atomico, 2021, 2020.stateofeuropeantech.com/chapter/diversity-inclusion

8. VC WATCHLIST

The largest and most successful VC firms have an outsized impact within the tech sector, both quantitatively and qualitatively.

For all US-based VC firms, the median number of total investments over the lifetime of the firm is 13; for European firms, the median number of total investments is 18; and for Chinese firms, the median number of investments is 28.[128]

The largest VC firms, however, have far more staff, and make a much larger number of investments. For instance, the top ten largest VC firms on the VCJ 50 List average 1,092 total investments each.[129] Further, the largest firms also tend to fund the most innovative and potentially impactful start-ups. According to a recent study by academics at Yale and Harvard, "[t]o the extent that entrepreneurs and other venture capitalists *believe* that VC firms differ in their ability to add value to firms, they prefer partners perceived as more able…entrepreneurs accept lower valuations and less attractive terms from more prestigious VC firms when choosing between offers. Prominent VC firms also gain access to a wider and better range of investment opportunity through syndicate partners who want to co-invest with them."[130]

When measuring the impact of human rights due diligence processes – or the lack thereof – in the VC sector, it is critical to focus on the role played by the world's largest VC firms.

Amnesty International's VC Watchlist tracks the ten largest VC firms – as measured by the VCJ 50 – based on whether they have in place adequate human rights due diligence processes, as laid out in the UN Guiding Principles and as described above. Human rights due diligence processes must include: i) embedding responsible business conduct into policies and management systems, ii) identifying and assessing actual and potential adverse impacts associated with the enterprise's operations, products or services, iii) ceasing, preventing and mitigating adverse impacts, iv) tracking implementation and results, v) communicating how these impacts are addressed, and vi) providing for remediation when appropriate. Simply having a policy on paper is not sufficient.

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128. *State of the Venture Capital Industry in 2019,* www.toptal.com/finance/venture-capital-consultants/state-of-venture-capital-industry-2019.

129. *The VCJ 50,* www.venturecapitaljournal.com/the-vcj-50-venture-capitals-heavy-hitters. The top ten firms according to the VCJ 50 rankings are Insight Partners (1), New Enterprise Associates (2), Tiger Global Management (3), Sequoia Capital (4), Lightspeed Venture Partners (5), Andreessen Horowitz (6), Accel (7), Index Ventures (8), Norwest Venture Partners (9), and General Catalyst Partners (10). See crunchbase.com/discover/principal.investors. According to this data, Insight Partners has made 642 total investments, including 110 in the First Half of 2021; New Enterprise Associates has made 1,945 total investments, including 47 in the First Half of 2021; Tiger Global Management has made 633 total investments, including 149 in the First Half of 2021; Sequoia Capital has made 1,540 total investments, including 77 in the First Half of 2021; Lightspeed Venture Partners has made 962 total investments, including 67 in the First Half of 2021; Andreessen Horowitz has made 992 total investments, including 109 in the First Half of 2021; Accel has made 1,621 total investments, including 107 in the First Half of 2021; Index Ventures has made 940 total investments, including 66 in the First Half of 2021; Norwest Venture Partners has made 752 investments, including 39 in the First Half of 2021, and General Catalyst Partners has made 896 total investments, including 81 in the First Half of 2021. All data current through 13 July 2021.

130. R. Nanda, S. Samil and O. Sorenson, *The persistent effect of initial success: Evidence from venture capital,* Journal of Financial Economics Vol. 137 Issue 1, 2020, sciencedirect.com/science/article/pii/S0304405X20300337?via%3Dihub

Firms for which we have not found any evidence of a human rights due diligence process are coloured red. Those that have a human rights due diligence process but that does not meet all the criteria set out in the UN Guiding Principles are coloured yellow. Those that have a human rights due diligence process that meets the criteria set out in the UN Guiding Principles are coloured green.

We make this determination based on a combination of desk research and inquiries sent directly to the firms themselves on 4 March 2021 and again in late June and early July, 2021. We will update this Watchlist on an annual basis.

2021 VC WATCHLIST

Firm	VCJ 50 Rank[131]	Location	Number of Investment Deals, January – June 2021[132]	Human Rights Due Diligence
Insight Partners[123]	**1**	New York City (USA)	110	**Have a human rights due diligence process but does not meet all the criteria set out in the UN Guiding Principles[133]**
NEA[124]	**2**	Menlo Park, California (USA)	47	**We have not found any evidence of a human rights due diligence process[134]**
Tiger Global Management[125]	**3**	New York City (USA)	149	**We have not found any evidence of a human rights due diligence process[135]**
Sequoia Capital[126]	**4**	Menlo Park, California (USA)	77	**We have not found any evidence of a human rights due diligence process[136]**
Lightspeed Venture Partners[127]	**5**	Menlo Park, California (USA)	67	**We have not found any evidence of a human rights due diligence process[137]**
Andreessen Horowitz[128]	**6**	Menlo Park, California (USA)	109	**We have not found any evidence of a human rights due diligence process[138]**
Accel[129]	**7**	Palo Alto, California (USA)	107	**We have not found any evidence of a human rights due diligence process[139]**
Index Venture Partners[130]	**8**	San Francisco, California (USA)	66	**We have not found any evidence of a human rights due diligence process[140]**
Norwest Venture Partners[131]	**9**	Palo Alto, California (USA)	39	**Have a human rights due diligence process but does not meet all the criteria set out in the UN Guiding Principles[141]**
General Catalyst[132]	**10**	Cambridge, Massachusetts (USA)	81	**We have not found any evidence of a human rights due diligence process[142]**

131. The Venture Capital Journal rankings are "based on the amount of direct investment capital raised by firms for the purpose of venture investment. For this inaugural VCJ 50 tabulation, we looked at the capital raised between 1 January 2015 and June 30, 2020." *See VCJ 50 Methodology,* Venture Capital Journal, 2020, www.venturecapitaljournal.com/vcj-50-methodology

132. All data from Crunchbase as of 13 July 2021. See crunchbase.com/discover/principal.investors.

133. Amnesty International wrote to Insight Partners on March 4th, requesting information on their due diligence processes. An example of this letter is included as Appendix 2. Insight replied to our letter on March 30th. Their response is included as Appendix 5. Amnesty International sent a follow-up letter requesting further information on July 7th. Insight partners did not respond by the deadline of July 15th.

9. CONCLUSION

The future of technology – and with it the future of our economies, societies, politics and human rights – is today shaped by a handful of venture capital firms. Venture capitalists play a critical gate-keeping role. Their decisions about who to fund and support help determine which start-ups will grow to become the next Google or Facebook. Their decisions also impact the development of new and frontier technologies. If we want to ensure that tomorrow's leading tech companies and technologies support our human rights, we need to act today. Venture capitalists have a critical role to play, given their tremendous leverage over the entire start-up ecosystem. With that power comes responsibility. Yet to date, venture capitalists – especially the leading VC firms – have ignored this responsibility, focusing on short-term profits at the cost of our long-term human rights. It is past time for venture capitalists to act responsibly and conduct adequate human rights due diligence to ensure that their investments do not undermine our human rights.

134. Amnesty International wrote to NEA on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 7th. NEA did not respond to either letter.

135. Amnesty International wrote to Tiger Global Management on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on June 30th. Tiger Global Management did not respond to either letter.

136. Amnesty International wrote to Sequoia on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 1st. Sequoia did not respond to either letter.

137. Amnesty International wrote to Lightspeed on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 1st. Lightspeed did not respond to either letter.

138. Amnesty International wrote to Andreessen Horowitz on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 1st. Andreessen Horowitz did not respond to either letter.

139. Amnesty International wrote to Accel on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 1st. Accel did not respond to either letter.

140. Amnesty International wrote to Index Ventures on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 1st. Index Ventures did not respond to either letter.

141. Amnesty International wrote to Norwest Venture Partners on March 4th, requesting information on their due diligence processes. An example of this letter is included as Appendix 2. Insight replied to our letter on March 18th. 2021. Their response is included as Appendix 6. Amnesty International sent a follow-up letter requesting further information on July 7th. Insight partners did not respond by the deadline of July 15th.

142. Amnesty International wrote to General Catalyst on March 4th, requesting information on their due diligence processes. Amnesty International sent a second letter on July 1st. General Catalyst did not respond to either letter.

10. RECOMMENDATIONS

TO VENTURE CAPITAL FIRMS:

1. Venture capital firms should conduct comprehensive human rights due diligence at all stages of the investment process. This includes:
    a. Developing an effective, publicly available policy that corresponds to the standards set forth in the UN Guiding Principles on Business and Human Rights, including a commitment to respect human rights, as well as explaining how the policy will be put into practice and who will be ultimately responsible for its effective implementation;
    b. Conducting human rights due diligence (HRDD) prior to investment in line with the UN Guiding Principles, to identify, prevent, mitigate and publicly account for the actual and potential human rights impacts of their investments;
    c. Publicly reporting on the due diligence conducted on their investments, including the actual and potential impacts they have identified and actions taken to prevent and remediate any harm and mitigate any risk;
    d. Including a commitment in term sheets offered to portfolio companies stating that these companies must commit to respect human rights;
    e. Ensuring that portfolio companies implement an adequate due diligence process to identify, prevent, mitigate and account for the actual and potential human rights impacts of their business operations, products or services;
    f. Monitoring the human rights implications of portfolio company business models, products and services on an ongoing basis, and taking immediate action to prevent any adverse impacts, mitigate any risks and remedy any harm that they identify;
    g. Providing regular public reporting on their HRDD processes;
    h. Requiring publicly accessible annual reporting from portfolio companies on their HRDD, including accounting for how they are addressing or have addressed any human rights impact resulting from their operations; and
    i. Divesting from portfolio companies if after engagement it is not possible to prevent or mitigate any human rights risks, because mitigation attempts have failed, mitigation is not feasible or the adverse impact is severe, taking steps to ensure that divestment is done responsibly and carefully assessing potential adverse impacts, in accordance with the UN Guiding Principles.
2. Venture capital firms should provide support to their portfolio companies to ensure that they comply with human rights standards. As part of this effort, venture capital firms should require all companies in which they plan to invest to show that they have audited any AI/ML services and

tools to ensure that they do not exhibit algorithmic bias or discrimination. This includes:

a. Assessing the risk that the AI/ML system will have a discriminatory impact at both the development and deployment stage, taking into account risks commonly associated with machine learning systems such as training systems on incomplete or unrepresentative data or relying on datasets representing historic or systemic bias;
b. Correcting for any discriminatory impact discovered, in both the design and impact of the system and in deciding which training data to use;
c. Submitting systems that have a significant risk of resulting in human rights abuses to independent third party audits;
d. Committing to track the potential discriminatory impact of these systems over time, including ongoing quality assurance checks and real-time auditing through design, testing and deployment stages; and
e. Committing not to deploy a machine learning system when the risk of discrimination or other rights violations is too high or impossible to mitigate.

3. Venture capital firms should publi cly commit to hiring more diverse teams, especially in investment-related positions.
4. Venture capital firms should publicly commit to funding more diverse startup founders as part of their flagship funds, and then track and publicly report on the extent to which they are providing funding to female and minority founders.

TO LIMITED PARTNERS:

1. Limited Partners should require that they will only invest in venture capital firms that have implemented a robust human rights due diligence policy.

TO STATES:

1. Ensure that all companies, including venture capital firms, domiciled in their countries are required to act responsibly and are held liable for their negative human rights impacts. They must require by law that these companies undertake human rights due diligence measures in respect of their global operations and investments.
2. States should, where appropriate, investigate and prosecute instances of criminal behaviour on the part of corporate entities, including VC firms.

APPENDIX 1: LIST OF VC FIRMS AND ACCELERATORS SURVEYED

VC FIRM	HEADQUARTERS	VCJ RANK[143]
Insight Partners	New York	1
New Enterprise Associates	Maryland	2
Tiger Global Management	New York	3
Sequoia Capital	Menlo Park	4
Lightspeed Venture Partners	Menlo Park	5
Andreessen Horowitz	Menlo Park	6
Accel	Palo Alto	7
Index Ventures	Geneva	8
Norwest Venture Partners	Palo Alto	9
General Catalyst Partners	Cambridge	10
Founders Fund	San Francisco	11
Battery Ventures	Boston	12
Bessemer Venture Partners	San Francisco	13
GGV Capital	Menlo Park	14
Flagship Pioneering	Cambridge	15
Qiming Venture Partners	Shanghai	16
IVP	Menlo Park	17
Shunwei Capital Partners	Beijing	18
Matrix Partners	San Francisco	19
Sapphire Ventures	Palo Alto	20
ICONIQ Capital	San Francisco	21
ARCH Venture Partners	Chicago	22
Sofinnova Partners	Paris	23
Lux Capital Management	New York	24
Menlo Ventures	Menlo Park	25
Summit Partners	Boston	26
Sinovation Ventures	Beijing	27
Rocket Internet	Berlin	28
DCM Ventures	Menlo Park	29
Morningside Venture Capital (5Y)	Shanghai	30
Atomico	London	31
Bain Capital Ventures	Boston	32
DCVC	Palo Alto	33

143. The Venture Capital Journal rankings are “based on the amount of direct investment capital raised by firms for the purpose of venture investment. For this inaugural VCJ 50 tabulation, we looked at the capital raised between 1 January 2015 and June 30, 2020.” *See VCJ 50 Methodology,* Venture Capital Journal, 2020, www.venturecapitaljournal.com/vcj-50-methodology

IDG Capital	Beijing	34
Oak HC/FT	Greenwich, Conn.	35
8VC	San Francisco	36
Third Rock Ventures	Boston	37
EQT Ventures	Stockholm	38
FirstMark Capital	New York	39
Cathay Innovation	Paris	40
Source Code Capital	Beijing	41
Social Capital	Palo Alto	42
Kleiner Perkins	Menlo Park	43
OrbiMed Advisors	New York	44
Frazier Healthcare Partners	Seattle, Wash.	45
Versant Ventures	San Francisco	46
Atlas Venture	Cambridge	47
Mayfield Fund	Menlo Park	48
Clarus Ventures	Cambridge	49
Venrock	Palo Alto	50

ACCELERATOR	HEADQUARTERS
Y Combinator	San Francisco
500 Start-ups	San Francisco
TechStars	Colorado

APPENDIX 2: EXAMPLE OF AMNESTY INTERNATIONAL LETTER TO VENTURE CAPITAL FIRMS

Delivered via email

[Letter sent to each VC firm's General Counsel]

RE: [VC Firm's] Human Rights Due Diligence Responsibilities

Dear [Name],

On behalf of Amnesty International USA [and the International Secretariat], I am writing to you regarding [VC]'s human rights due diligence process when determining whether to provide funding in a given sector and / or to a specific company.

Amnesty International is an independent, Nobel Peace Prize-winning, global human rights movement of more than ten million people.[144]

Amongst other issues, Amnesty International campaigns to make sure that governments honor their legal obligation to protect human rights. Amnesty International also campaigns for corporations to respect human rights in their operations, wherever they operate.

Amnesty International is currently conducting research into whether venture capital firms are meeting their responsibility to respect human rights, in particular (1) the extent to which venture capital firms have implemented a human rights due diligence process applicable to any investment decision, and if so, what this process entails; and (2) how venture capital firms ensure that the companies they invest in respect human rights. We are reaching out to a number of venture capital firms to gather this data and will use this information in an upcoming report.

Companies have a responsibility to respect all human rights wherever they operate in the world and throughout their operations. This is a widely recognised standard of expected conduct as set out in international business and human rights standards including the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles).[145]

The corporate responsibility to respect human rights requires companies to avoid causing or contributing to human rights abuses through their own business activities, and to address and remediate impacts on human rights linked to their operations, products, or services. It also requires companies to seek to prevent or mitigate adverse human rights impacts directly linked to their operations or services by their business relationships, even if they have not contributed to those impacts.[146] In the financial sector, a relationship between an investor and investee company including a minority shareholder can be considered a "business relationship" under the OECD Guidelines.[147]

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144. Amnesty International USA is the movement's U.S.-based section with more than one million activists, supporters, and members.

145. This responsibility was expressly recognized by the UN Human Rights Council on 16 June 2011, when it endorsed the UN Guiding Principles on Business and Human Rights, and on 25 May 2011, when the 42 governments that had then adhered to the Declaration on International Investment and Multinational Enterprises of the OECD unanimously endorsed a revised version of the OECD Guidelines for Multinational Enterprises. See Human Rights Council, Human Rights and Transnational Corporations and other Business Enterprises, Resolution 17/4, UN Doc A/HRC/RES/17/4, 6 July 2011; OECD, OECD Guidelines for Multinational Enterprises, 2011, OECD Publishing, available at www.oecd.org/corporate/mne.

146. UN Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011) UN Doc HR/PUB/11/04, Principles 11 and 13 including Commentary, available at www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (hereafter UNGPs).

147. OECD (2014), Scope and applications of 'business relationships' in the financial sector under the OECD Guidelines for Multinational Enterprises.

This responsibility is independent of a state's own human rights obligations and exists over and above compliance with national laws and regulations protecting human rights.[148]

To meet this responsibility, a company must take proactive and ongoing steps to identify and respond to its potential or actual human rights impacts. This entails undertaking human rights due diligence to identify, prevent, mitigate and account for how they address their human rights impacts. The due diligence process should involve assessing actual and potential human rights impacts and acting upon those findings.[149] This is not a one-off responsibility, but an ongoing and proactive process.

For venture capital funds, this responsibility applies to its decisions about the sectors on which to focus, and which companies it chooses to invest in. Venture capital firms must undertake human rights due diligence to assess the potential or actual human rights impacts of the companies they choose to support – i.e. the potential or actual impacts of those companies' actions and / or products. Furthermore, the human rights impact assessment of the entities a fund chooses to invest in must continue even after the initial investment has taken place, especially in instances where the business nature of the entity changes through time.

When conducting human rights due diligence, a company may identify that it may cause or contribute to – or already be causing or contributing to – a serious human rights abuse. In these cases, companies must seek to prevent or mitigate such adverse human rights impacts if they are directly linked to their operations. Where impacts are outside of the business enterprise's control, the UN Guiding Principles require the business enterprise to exercise leverage, or seek to improve leverage where leverage is limited, including through collaboration if appropriate.

In the context of venture capital funds, the level of influence on its investees may at times be of such a significant nature that it constitutes control (either through majority ownership or other corporate governance or contractual mechanisms).[150] In such a case, the firm may expose itself to legal liability and be deemed responsible for not having ceased or prevented the action causing the harm, rather than only having to exercise its leverage with the investee.[151]

In cases where the fund cannot prevent or mitigate the human rights impact identified, then it must avoid or cease undertaking the relevant activity.

In the light of Amnesty International's concerns, and to have a better understanding of your position, I would be grateful for information on the following:

1. Policy & Commitments

- Does [VC firm] have an ESG policy? Does [VC firm] make their ESG policy publicly available?
- Does [VC firm] have any exclusionary screens (product categories or customer markets that will not be served)? Which exclusionary screens does [VC firm] use?
- Does [VC firm] have an internal policy to respect human rights? What commitments to respect human rights have been developed?
- Who in the senior leadership team of [VC firm] is responsible for ensuring compliance with ESG and human rights policies?

148. UNGPs, Principle 11 including Commentary.

149. UNGPs, Principles 15, 16 and 17 including Commentary.

150. OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises.

151. UNGPs, Commentary to Principle 17.

2. **Due Diligence**

- Does [VC firm] conduct human rights due diligence (HRDD) as part of the pre-investment screening and diligence process?
- Under what circumstances does [VC firm] decline to invest due to human rights risks?
- Are there specific instances where [VC firm] has declined to invest in a company or sector due to human rights and/or ESG risks?
- What steps are taken by [VC firm] after the investment has taken place to ensure human rights risks are identified and addressed by the investee companies?
- Are there specific instances where [VC firm] has divested from one of its portfolio companies due to the identification of human rights impact?

3. **Term Sheets**

- Does [VC firm] include ESG criteria in term sheets to portfolio companies?
- Does [VC firm] include an explicit statement to respect human rights in term sheets to portfolio companies? What actions are taken with companies that violate these terms?
- What safeguards does [VC firm] require portfolio companies to take to minimize human rights risks?

As mentioned above, Amnesty International intends to publish a report on this topic, and may include part or all or your response in the statement. We will also note those funds which decline to respond. Please respond by email to [email] by the close of business on [date].

Sincerely,

APPENDIX 3: ATOMICO RESPONSE LETTER (RECEIVED 19 MARCH 2021)

Amnesty International US: Human Rights Questionnaire

1. **Policy & Commitments**

- Does Atomico have an ESG policy? Does Atomico make their ESG policy publicly available?

  Yes. Atomico has an ESG policy that is published on the company's website. Please see the link to our ESG policy here.

- Does Atomico have any exclusionary screens (product categories or customer markets that will not be served)? Which exclusionary screens does Atomico use?

  Yes. We have specific ESG-related investment exclusions in our fund documentation and under our Responsible Investment Policy which prohibits certain investments which may have negative impacts from an ESG perspective. These include exclusions related to investments in weapons, gambling, oil and gas, pornography, human cloning, tobacco, speculative derivative trading, alcohol and genetics. This prohibited list is not exhaustive and ad hoc assessments are made where investments associated with similar or related risks are being contemplated.

  From a human rights perspective, Atomico will also specifically not invest in any companies that:

  – have contributed to systemic denial of human rights

  – show pattern of engaging in child labour or forced labour

  – demonstrate a pattern of non-compliance with environmental regulations

  In addition to the above, each of our investments is evaluated against a Value Score Card as part of our due diligence process. If a potential investment is deemed to have a negative impact on society in general we would not proceed with an investment in the company.

- Does Atomico have an internal policy to respect human rights? What commitments to respect human rights have been developed?

  All employees are required to adhere to Atomico's ESG policy, which includes a commitment to respect human rights.

- Who in the senior leadership team of Atomico is responsible for ensuring compliance with ESG and human rights policies?

  Atomico has established an ESG and Diversity Task Force comprising of senior team members drawn from our Investment, People, IR, Finance and Legal teams. The Task Force reports to the firm's ExCom which includes the firm's Chief Executive Officer and Chief Operating Officer.

2. **Due Diligence**

- Does Atomico conduct human rights due diligence (HRDD) as part of the pre-investment screening and diligence process?

  Yes. As part of our screening process, Atomico's investment teams will regularly assess a company's ESG-related risks and other related factors (including potential issues related to human rights, diversity, environmental impact, climate change, ethics, anti-bribery and corruption). Any concerns over potential human rights issues would lead to the investment opportunity being declined.

- Under what circumstances does Atomico decline to invest due to human rights risks?
- As part of our investment due diligence a Value Scorecard is completed that would highlight any potential risks related to ESG, including human rights. Any material risks would likely result in a decision not to proceed with the opportunity.
- Are there specific instances where Atomico has declined to invest in a company or sector due to human rights and/or ESG risks?

  Atomico has passed on a number of investment opportunities where we believed that there were or where there potentially could have been negative ESG impacts. These instances have included investment opportunities related to the oil and gas industry.
- What steps are taken by Atomico after the investment has taken place to ensure human rights risks are identified and addressed by the investee companies?

  Atomico portfolio companies are actively monitored by a member of the investment team and, in many cases, by our Growth Acceleration Team ('GAT'). When appropriate and able to do so (e.g. where Atomico is a lead investor in a round), Atomico's investment team will typically take on responsibilities as a member of the board of directors for a portfolio company. All existing investments are reviewed on a quarterly basis through analysis of data received from portfolio companies, visits to portfolio companies, management visits to Atomico and regular board meetings. Any ESG or human rights related risks would be expected to be identified as part of this review process.

  Central to our investment process is also the introduction and implementation of a strong governance and management structure for each of our portfolio companies. Since 2020, Atomico requires its new portfolio companies, where we lead an investment round, to design and implement a Diversity & Inclusion policy within three months and a Diversity & Inclusion strategy within six months of Atomico's investment.

  Atomico strongly encourages portfolio companies and the founders and CEOs we work with to actively engage with the ESG implications of their business activities. Our approach is not only about mitigating risks, but also about adding value by using ESG factors to improve business practices. Where possible and appropriate we will work with our portfolio companies to develop a toolkit to provide additional support on implementing best practices.
- What steps are taken by Atomico after the investment has taken place to ensure human rights risks are identified and addressed by the investee companies? Are there specific instances where Atomico has divested from one of its portfolio companies due to the identification of human rights impact?

  Not to date. Atomico has not to date identified any human rights related issues in our existing portfolio.

3. Term Sheets

- Does Atomico include ESG criteria in term sheets to portfolio companies? Does Atomico include an explicit statement to respect human rights in term sheets to portfolio companies?

  Yes. Where Atomico is leading a round, we will include specific ESG items in the term sheet related to the introductions of a Diversity & Inclusion policy and strategy within a set period of time following the completion of the investment.

- What actions are taken with companies that violate these terms?

  We work to support our portfolio companies to ensure that they comply with our Diversity & Inclusion requirements. We assist them in these efforts by providing the tools that they need to comply, including our publicly available Diversity & Inclusion Guidelines, and support from our Investment and Growth Acceleration Teams.

- What safeguards does Atomico require portfolio companies to take to minimize human rights risks?

  Atomico publicly launched our Conscious Scaling Programme, which is a framework for dialogue between founders and investors/the board focused on identifying and mitigating long-term risks associated with the business model or technology's impact on society, the environment, and all stakeholders, including human rights risks. Atomico engages its portfolio companies in the conscious scaling programme as part of our investment due diligence phase, and continues to work with our portfolio companies on these issues throughout the lifecycle of the investment through our interaction with the founders and leadership teams, in addition to our Board representation.

APPENDIX 4: EQT RESPONSE LETTER (RECEIVED 19 MARCH 2021)

We have answered your questions below:

1. **Policy & Commitments**

   EQT considers responsible investment and ownership principles and practices, including the consideration of material sustainability aspects as an integral part of each phase of the investment and value-creation process. This is formalized in *EQT's Responsible Investment & Ownership Policy* which also applies for the EQT Ventures funds and references to Human rights are included.

   EQT Ventures has chosen to legally commit, in the Limited Partners Agreement, that the fund will not invest in any of the following sectors:

   - Gambling
   - Adult or pornographic content, trafficking etc.
   - Weapons
   - Petroleum industries
   - Alcohol
   - Narcotics etc.

   As a result, already in the deal screening phase we are eliminating the risk to invest into industries with a less sustainable business model. Furthermore, the EQT Ventures funds mostly invest in tech companies that work with software development.

   EQT Ventures' direct human rights risk is connected to its employees and if it would not fulfil its commitments with regards to diversity, inclusion and a harassment-free workplace. EQT complies with international conventions on human rights and its commitment is formalized in policies including the *EQT Code of Business Conduct* and the *EQT Diversity & No-Harassment Guidelines*. These guidelines outline EQT's values and standards on diversity, inclusion and anti-harassment, and also provide information on its whistleblowing process.

2. **Due Diligence**

   Given that EQT Ventures' funds typically do not make control or co-control investment, EQT's influence is typically more limited, including influence on sustainability matters. Nonetheless, as part of the due diligence efforts, EQT Ventures funds' are doing a sustainability/ESG assessment where specific risks are assessed as well as an analysis of the UN Sustainable Development Goals (SDGs) the company is contributing to.

   For EQT Ventures' growth investments, one of the expectations during the ownership period is having or putting a sustainability-related code/policy or similar guidelines in place. As such policies can vary in their nature depending on the respective portfolio company's sector/industry, market(s) and operations, a number of considerations are taken into account. New portfolio companies also receive support from internal resources and gets best-practice advice, such as the *EQT Sustainability Toolbox* and the Sustainability team and internal network of Sustainability Ambassadors.

   When it comes to the investment decisions EQT Ventures take, we assess ethical aspects d and not only the economic aspects. There have been instances where we decided not to invest because of ethical reasons.

Examples from the EQT Ventures fund portfolio:

A. An example would be the investment in Wolt, an operator of an online food delivery platform, connecting customers to restaurants.

<u>What is Wolt doing to ensure a good working environment for their couriers:</u>

- Flexibility to plan your own schedule
- Competitive earnings
- Using technology to create a better experience
- All of this is leading to a high satisfaction score (84%) from couriers.

Wolt is also starting to roll out guidelines on "How to work responsibly without couriers". This is something that is being discussed in the board of directors' meetings.

B. Another example would be how EQT Ventures' portfolio company Dott, a company that develops micro-mobility bikes and scooters that are designed to provide safe, convenient, affordable and sustainable alternatives for short-distance travel, is working with their Lithium batteries:

- Dott is using high quality materials for their batteries.
- They are only handled by trained technicians in secure locations

3. Term Sheets

Since 2019, the EQT Ventures funds have been adding a clause in the term sheets, stating as conditions to the fund's investment that the founders must agree to develop Diversity & Inclusion policies, and agree to disclose any potential issues regarding #metoo incidents. To introduce this level of "detail" at an early stage therefore sends a strong signal of its importance to the EQT Ventures funds. In late 2020, this approach was expanded to include that founders will also need to adopt a Sustainability Policy.

When those terms are not being met, we push for a discussion at the board director level and make sure that during our holding period a Sustainability Policy is implemented.

Please let us know if anything else is needed,

Sincerely,

APPENDIX 5: INSIGHT PARTNERS RESPONSE LETTER (RECEIVED 30 MARCH 2021)

Below is the official statement regarding Insight's commitment to ESG.

I also wanted to share two public blogs that highlight our focus on diversity, equity and inclusion. There are a number of initiatives the firm is working on with its portfolio to ensure best practices and good governance.

www.insightpartners.com/blog/insight-partners-commitment-to-diversity-equity-and-inclusion

www.insightpartners.com/blog/scaleups-lead-the-way-in-diversity-equity-inclusion

Insight is committed to a responsible approach to ESG issues in the course of its investment activities, including without limitation, diversity and equal employment opportunity matters and also social and labor conditions. The Firm will consider ESG issues when reviewing investment opportunities, during due diligence and in the course of monitoring existing investments. Insight believes that an effective ESG policy can help Insight and the portfolio companies better manage risk, improve efficiency, reduce environmental impacts and build more valuable, sustainable businesses.

In addition, in 2015, Insight adopted the Guidelines for Responsible Investment set forth by the American Investment Council ("AIC") as guiding principles for responsible investment, addressing environmental, public health, safety, labor, governance and social issues. In addition, Insight's Code contain policies and procedures addressing foreign corrupt practices and anti-bribery, anti-money laundering and know-your-client issues. Through the participation of Insight representatives on the boards of directors of portfolio companies, the Firm further encourages best practices in corporate governance and as an aspect of overall good business practices.

Insight has in practice been adhering to both the spirit and substance of the AIC Guidelines for some time, in the course of due diligence it undertakes in advance of making investments, during the course of monitoring investments and in the participation of its representatives on the boards of directors of portfolio companies.

Would you mind sharing anything you're planning to create to ensure that it accurately reflects this information.

Best,

APPENDIX 6: NORWEST VENTURE PARTNERS RESPONSE LETTER (RECEIVED 18 MARCH 2021)

Amnesty International USA – Silicon Valley Initiative

600 Pennsylvania Avenue SE, 5th Floor

Washington, DC 20003

We received your March 4, 2021 request for information with regard to Norwest Venture Partners' Human Rights Due Diligence Responsibilities. We have copied your specific requests for information below, and have included our confidential responses to each question in italics. Please feel free to include our responses below in any larger blinded/anonymized survey results; however, **we require that our specific responses remain confidential between Norwest and Amnesty International in all cases and for all purposes.** Please reach out if you require any further clarification on the below.

1. **Policy & Commitments**

a. Does your firm have an ESG policy? Does your firm make their ESG policy publicly available?

i. While Norwest does not have a specific environmental, social and governance policy, we have several internal policies and processes that govern our standards for portfolio company diligence, investments, and operations. We use these policies and standard practices not only to screen potential investments as part of our rigorous diligence process, but also to monitor the ongoing activities of companies in which we invest in order to encourage such companies to hold themselves to high standards in all areas.

b. Does your firm have any exclusionary screens (product categories or customer markets that will not be served)? Which exclusionary screens does your firm use?

i. Norwest does have exclusionary screens for product categories in which we will not invest. We do not publicize our exclusionary screens for privacy reasons, although we expect that our screens generally are more restrictive than the screens used by the venture capital industry as a whole.

c. Does your firm have an internal policy to respect human rights? What commitments to respect human rights have been developed?

i. Please see our response to Question 1(a) above with regard to our internal policies. Norwest does not have an official policy with regard to human rights.

d. Who in the senior leadership team of your firm is responsible for ensuring compliance with ESG and human rights policies?

i. Please see our response to Question 1(a) above with regard to our internal policies. Although Norwest does not specifically have ESG or human rights policies, we do have internal policies governing everything from appropriate behavior in the workplace to the extensive screening and diligence process that our investment teams undergo before Norwest makes the decision to invest in any portfolio company.

2. **Due Diligence**

a. Does your firm conduct human rights due diligence (HRDD) as part of the pre-investment screening and diligence process?

i. Norwest's pre-investment screening and diligence process is extensive. While Norwest does not have a particular process through which to specifically screen human rights diligence matters, the legal, technical and business due diligence performed by our investment teams is thorough and would reasonably be expected to uncover any human rights abuses perpetrated by a company being screened. In some circumstances, Norwest also employs the use of background checks and other processes through which to further analyze the leadership of its portfolio companies.

b. Under what circumstances does your firm decline to invest due to human rights risks?

i. If Norwest were to screen a potential company pre-investment and discover human rights risks, Norwest would either decline to invest or would work diligently with the potential portfolio company to address such human rights risks to the extent possible.

c. Are there specific instances where your firm has declined to invest in a company or sector due to human rights and/or ESG risks?

i. No, although ESG risks have been taken into account in situations where Norwest has made a decision not to invest.

d. What steps are taken by your firm after the investment has taken place to ensure human rights risks are identified and addressed by the investee companies?

i. In a typical investment led by Norwest, Norwest has the right to have a Norwest representative(s) on the company's Board of Directors, and will have other standard information and inspection rights as well. Such rights give Norwest some insight into the high-level operations of such portfolio company. Norwest employees monitor Norwest's portfolio companies on an ongoing basis for any major issues, which we would expect to include human rights violations.

e. Are there specific instances where your firm has divested from one of its portfolio companies due to the identification of human rights impact?

i. No.

3. Term Sheets

a. Does your firm include ESG criteria in term sheets to portfolio companies?

i. Norwest's term sheets typically provide for standard closing conditions, including the completion of satisfactory legal, business and technical due diligence. Norwest expects that such extensive diligence efforts would uncover any human rights violations or other substantial environmental, social, or governance issues.

2.Does your firm include an explicit statement to respect human rights in term sheets to portfolio companies? What actions are taken with companies that violate these terms?

i. No.

3.What safeguards does your firm require portfolio companies to take to minimize human rights risks?

i. Norwest typically does not require its portfolio companies to implement specific policies with regard to human rights, although portfolio companies could and do implement policies addressing ESG matters of their own accord. Please see our response to Question 2(d) above with regard to Norwest's ongoing monitoring of its portfolio companies.

Sincerely,

General Counsel, Norwest Venture Partners

APPENDIX 7: SAPPHIRE VENTURE RESPONSE LETTER (RECEIVED 30 MARCH 2020)

Here are our responses in bold:

1. **Policy & Commitments**

- Does your firm have an ESG policy? Does your firm make their ESG policy publicly available? **We are currently engaging consultants to develop an ESG policy. We plan to make a high-level version of our policy public as well as annual reports on our progress and implementation.**
- Does your firm have any exclusionary screens (product categories or customer markets that will not be served)? Which exclusionary screens does your firm use? **Yes, we have LPA restrictions on investments into munitions, modern weapons, alcohol and tobacco. Our investment scope/ focus is to invest in venture backed start-ups and venture funds in the technology and software space, however. Anything outside of this would generally require LP or LPAC consent. 7 OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises. 8 UNGPs, Commentary to Principle 17.**
- Does your firm have an internal policy to respect human rights? What commitments to respect human rights have been developed? **No.**
- Who in the senior leadership team of your firm is responsible for ensuring compliance with ESG and human rights policies? **N/A.**

2. **Due Diligence**

- Does your firm conduct human rights due diligence (HRDD) as part of the pre-investment screening and diligence process? **No.**
- Under what circumstances does your firm decline to invest due to human rights risks? **Given our investments scope is primarily enterprise software investments in the US and EU, we have not invested in any companies with known human rights risks.**
- Are there specific instances where your firm has declined to invest in a company or sector due to human rights and/or ESG risks? **Given our investments scope is primarily enterprise software investments in the US and EU, we have not invested in any companies with known human rights risks.**
- What steps are taken by your firm after the investment has taken place to ensure human rights risks are identified and addressed by the investee companies? **None at this time. Given our investments scope is primarily enterprise software investments in the US and EU, we have not invested in any companies with known human rights risks.**
- Are there specific instances where your firm has divested from one of its portfolio companies due to the identification of human rights impact? **No. Given our investments scope is primarily enterprise software investments in the US and EU, we have not invested in any companies with known human rights risks.**

3. **Term Sheets**

- Does your firm include ESG criteria in term sheets to portfolio companies? **Yes, we include diversity hiring criteria for portfolio company executive positions in our term sheets.**

- Does your firm include an explicit statement to respect human rights in term sheets to portfolio companies? What actions are taken with companies that violate these terms? **No. Given our investments scope is primarily enterprise software investments in the US and EU, we have not invested in any companies with known human rights risks.**
- What safeguards does your firm require portfolio companies to take to minimize human rights risks? **Given our geographic and sector investment focus, we do not anticipate any human rights risks. At the time of investment, we conduct due diligence aimed at ensuring compliance with all applicable labor and other laws and regulations and review any disclosures of non-compliance. We also generally require that portfolio companies adopt an employee HR handbook, and suggest it be modeled off of the NVCA form.**

APPENDIX 8: TECHSTARS RESPONSE LETTER (RECEIVED 17 MARCH 2021)

Thank you very much for your message and inquiry into Techstars' commitment and practices regarding human rights. I am responding to your below message to […]Techstars' General Counsel. By way of introduction, […], as a member of Techstars' legal team, I lead compliance for the Company.

In response to your questionnaire regarding Techstars' due diligence processes, policies and practices regarding human rights, we have provided the below overview. We hope you will find the information provided below responsive to your questions.

As a certified B-Corp that lives by its #GiveFirst values and mission to help entrepreneurs succeed around the world, Techstars takes human rights very seriously in its investment selection, interactions with founders, and internal operations. In addition to the actions it takes as a B-Corp, Techstars demonstrates its commitment to human rights through its robust Code of Conduct that all founders, partners, employees, and members of our network are required to follow.

*Techstars incorporates its commitment to human rights and ESG in its accelerator programming and investments. Techstars launched its first impact fund in 2017 with ESG principals integrated into the investment process (**"Impact Fund"**). The Impact Fund operated the Techstars Impact accelerator program for two years and made follow on investments in impact companies in other Techstars accelerators. Techstars currently operates multiple corporate partner accelerator programs that invest at the intersection of the human rights, environment, and sustainability including Techstars Sustainability Accelerator in partnership with The Nature Conservancy, Techstars Farm to Fork Accelerator, Equinor and Techstars Energy Accelerator, Cox Enterprises Social Impact Accelerator powered by Techstars, Techstars Alabama EnergyTech Accelerator, and The Heritage Group Accelerator powered by Techstars.*

Thank you for all the work that you and your team are doing to advance human rights. Your contributions are greatly appreciated.

Kind regards,

[…]

AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.

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RISKY BUSINESS

THE LACK OF HUMAN RIGHTS DUE DILIGENCE BY LEADING VENTURE CAPITAL FIRMS

Venture capitalists shape the future of technology, and with it the future of our economies, politics, societies and fundamentally, our human rights. They decide which new technologies and technology companies will receive early-stage funding, and which will not. This, in turn, helps determine which start-ups today will develop the new platforms and technologies that will shape our lives tomorrow. Their decisions also impact the development of new and frontier technologies.

Yet venture capitalists have consistently focused on short-term profits at the cost of our longer-term human rights. This briefing shows how few venture capital firms conduct any form of human rights due diligence to gauge the broader impact of their investments. It also highlights the lack of diversity within the venture capital sector itself.

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