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The Tobacco Industry's Human Rights Makeover: an archival review of British American Tobacco's human rights rhetorical veneer

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Abstract

Background: British American Tobacco (BAT) released an industry-first human rights report in 2020, which extolled the efforts and objectives of the tobacco industry giant for promoting human rights. How BAT came to brand itself as a human rights champion, being a leader in an industry long-accused of enabling human rights violations from leaf-to-stub including profiting from a product which inherently violates the right to health, is unknown. Exploring BAT's evolution through reviewing its materials and Tobacco Industry Documents could shed light on their development and what it means in the tobacco control and human rights context.

Methodology: We reviewed publicly available materials from BAT as well as conducted archival research in the Tobacco Industry Documents digital archives at UC San Francisco. We focused on how and when BAT used terms such as "human rights", "right to health", "sustainable development goal", and "harm reduction" as well as "Framework Convention on Tobacco Control".

Results: We reviewed 48 BAT publications and 45 documents from the Tobacco Industry Documents archives. These materials demonstrate both BAT's increasing utilization of human rights language as well as BAT's reuse of the same language, concepts, and general rhetoric. BAT has not engaged significantly or meaningfully on the human right to health.

Conclusion: BAT's increasing use of human rights rhetoric does not appear to reflect a shift in the company's human rights positions, particularly with respect to the right to health of consumers and BAT's lack of impactful measures to eliminate the harms of its tobacco products.

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Conflict of Interest

The authors declare no conflicts of interest.

Contributorship Statement

NRS and SAB developed this study collaboratively. NRS conducted the initial document collection and analysis, in consultation with SAB. NRS drafted this paper with SAB providing substantive review and revision.

INTRODUCTION

The tobacco industry is broadly considered anathema to human rights, yet the industry itself would prefer to be seen as human rights champions. For example, British American Tobacco (BAT) is defining – or redefining – its human rights footprint in the 21st Century.[1] Whether as stalwart defenders of the freedom of choice,[2] promoters of allegedly reduced harm products, or as employers concerned about laborers and procurers of tobacco leaf from farmers around the world,[3, 4] BAT positions itself as a corporation that cares deeply for human rights, social responsibility, and a sustainable environment.[5] Additionally, BAT and other tobacco companies' efforts to engage in tobacco harm reduction comes into a context in which such engagement serves their motive to continue to manufacture, sell, and profit from tobacco use. There is no human right to *still* harmful products, especially if such half-measures lead to maintaining and initiating consumers of harmful tobacco products and thereby undermining achieving the highest attainable level of health.

For years, human rights activists and academics have criticized the tobacco industry human rights records.[6, 7] Criticisms include supply-chain issues such as child labour,[8, 9] as well as the production-marketing-profiting of a product that by design violates the right to health.[6, 10] Tobacco industry attempts to curry support among human rights monitors have, sometimes, backfired. After providing a human rights assessment to Philip Morris International at their request, the Danish Institute for Human Rights ended their engagement with the company and stated that “the production and marketing of tobacco is irreconcilable with the human right to health.”[11]

Though BAT has indicated no intention of ending its production or marketing of tobacco, it has been keen to indicate its support for human rights and the documentary bases for human rights, including the UN Guiding Principles on Business and Human Rights (UNGPs).[12] Frequent mentions of the International Labour Organization (ILO) and its conventions are sprinkled in BAT materials, including its 2020 Human Rights Report.[1] BAT also notes its alleged long-standing commitment to the Universal Declaration of Human Rights, an important foundation to modern human rights law whose Article 25 is a pillar to the right to health. Conspicuously absent are mentions of the Convention on the Rights of the Child, which both recognizes the right of children to not work in hazardous conditions or where the work negatively impacts their development (Article 32) and the right to health for children (Article 24),[13] despite the company's discourse that it discourages child labour. Similarly, the International Covenant on Economic, Social, and Cultural Rights is not discussed by BAT despite being fundamental to the international human rights framework, with Article 12 is another pillar to the right to health in recognizing everyone's right to enjoy their highest attainable level of health.[14]

Human rights in tobacco control expounds on the right to health, building on the work of advocates in other spheres to achieve stronger tobacco control measures and accountability from governments and business alike.[6, 7, 10] Though not within the canon of human rights conventions, the WHO Framework Convention on Tobacco Control (FCTC) is framed as supporting human rights and a means for countries to fulfil their human rights obligations. [15, 16] Indeed, multiple human rights treaty body committees – tasked with overseeing

the implementation of a given human rights treaty, like the Convention on the Rights of the Child – have recommended adoption of the FCTC as a means to fulfil other human rights treaty commitments, and praised countries that have done so.[16]

BAT [17] is not alone in wanting to frame their company more squarely as human rights supporters; Japan Tobacco International issued its own human rights report in 2021, similar in many respects to BAT's report, and we anticipate similar promulgations in the years ahead.[18]

To contextualize BAT's 2020 Human Rights Report, this paper describes how BAT's human rights discourse evolved, what they chose to exclude, and how their harm reduction engagement fit within this discourse.

METHODOLOGY

We began with BAT's Human Rights Report 2020 and worked backwards to understand if the report really signified a change in positioning.[1] First, we reviewed all the publicly-available materials on BAT's principal, English-language website – annual reports, sustainability reports, gender pay and anti-slavery reports, focus reports, webpages and similar – for content related to human rights, harm reduction, and sustainable development. With two exceptions, our material collection's endpoint was 31 December, 2020; we included the Environment, Social and Governance (ESG) Report 2020 and Science and Innovation Report 2020–2021, which we believe were released in 2021.[19, 20] Reports published since were not included in our analysis. We reviewed the documents utilizing the following keyword searches: “right to health”, “human right”, “sustainable development goal”, and “harm reduction” as well as “Framework Convention on Tobacco Control”. These search terms guided our content analysis wherein we aimed to capture themes, parallels, and other relevant data points to understanding BAT's evolution (or not) on human rights. We wanted to determine when BAT's own human rights rhetoric began from the materials we could access.

Following our review of the BAT's website materials, we searched the UC San Francisco's Truth Tobacco Industry Documents archives (TID) for any additional materials speaking to BAT's internal human rights discussions. We searched within the British American Tobacco, Brown & Williamson, and Canada Tobacco Industry Records (Brown & Williamson was, and Imperial Tobacco Canada is, a subsidiary of BAT), with no data parameters. Our search terms include “right to health”, “human right”, “sustainable development goal”, and “harm reduction”; to narrow our search results, we added “AND statement” to each of the aforementioned to capture drafts and final statement on the subject. We excluded documents distantly relevant to the search term, duplicates, reports from UN or other agencies to focus on documents that more clearly related to BAT's human rights discourse.

RESULTS

We found 51 public documents, including 6 webpages and 45 reports, on the BAT website dating back to 2007 (online supplemental table A). We excluded 3 webpages from deeper analysis, following initial review, for lack of pertinence.

From TID, we identified 128 documents from the search “‘right to health’ AND statement.” One document resulted from “sustainable development goal” but was not related to the UN Sustainable Development Goals. “Human rights’ AND statement” yielded 1077 results, and “‘harm reduction’ AND statement” yielded 209 results. We additionally searched the archive for “Millennium Development Goal”, the predecessor to the Sustainable Development Goals, to determine if there were any documents of BAT’s discussions on these but found no documents. We also searched “‘Framework Convention on Tobacco Control’ AND statement” with 476 results reported. Following review, we included 45 documents from the TID in this analysis.

BAT’s journey to human rights

Though not the earliest point in which human rights came into BAT’s circles (BAT and its affiliates were noting human rights at least as early as 1981),[21] a meeting held on 14 April 1997 to discuss the fallout of Royal Dutch Shell’s involvement in human rights violations in Nigeria is relevant.[22] This meeting focused on BAT’s own potential trouble spots with respect to human rights, risks to the business, and opportunities for the industry. Specific regions of concern at that time included Nigeria, which BAT noted was troubling but that withdrawal from the country in light of human rights abuses occurring there would “not necessarily change the military government [and] not only result in the loss of revenue to the thousands of Nigerian people who depend on BAT for their livelihood but also impact on local shareholders.”[23] Similar assessments were made for China and Hong Kong – the latter being transferred to China from British administration that same year. In its summation, BAT considered human rights important in both Nigerian and Chinese (including Hong Kong) contexts, but noting that BAT itself “is politically neutral...providing jobs, technical skills and personal development for individuals and the country.”[24] BAT also made note of its revenues from its business in Africa, and the incredible incentive to vend products in China and to do so without being viewed as imposing Western norms.[24, 25]

A subsequent note dated 8 May 1997 further discusses how at least some of BAT’s leaders were framing the company’s human rights relationship, noting that “human rights/corporate social responsibility appears to be the next generic issue after HSE [health, safety and the environment]” and that some strategies for “dealing with these social responsibility/human rights pressures...include: closer cooperation/dialogue with more realistic NGOs (those which recognise wealth generation and economic development as valid and are prepared to work with business).”[26] The note contended and circumscribed BAT’s human rights capacity, stating that “business has the capacity to look after the broad spectrum of HR [human rights] of its employees...but it cannot solve all the problems of society,”[26, 27] Messaging what companies, like BAT, were doing in local communities is emphasized as a means to respond to public pressures.[26, 28]

BAT’s interest in developing relationships with human rights watchdogs and NGOs in that space may have motivated it to answer Amnesty International’s U.K. Business Group letter, from 1998, expressing Amnesty International’s hope that BAT would use its “Business and Human Rights Matters” materials “to raise the profile of human rights in companies

to which you have links.”[29] Amnesty International had, in 1993, circulated a report on torture in China to companies doing business in that country, to which then-chairman of BAT Patrick Sheehy replied it was “inappropriate” for a multinational company to comment on such matters as human rights violations.[30] As with that 1993 report, the December 1998 letter appeared to have been sent to several multinational corporations. This time though it was followed on 9 June 1999 with a letter from Geoffrey Chandler, then-Amnesty International U.K. ’s Business Group Chair, to Shabanji Opukah, BAT’s then-head of International Development Issues, referencing a meeting they had and shared Chandler’s belief that “BAT has a significant role to play in explicitly supporting human rights.”[31] A reply letter, dated 18 June 1999 to Chandler, reflected on BAT’s “work on the area of corporate social responsibility” and that they “are working on [BAT’s] social report. This may be a good medium for our statement of support for the Universal Declaration of Human Rights and your support for this will be necessary.” The letter ended with the hope that BAT and Amnesty International might collaborate on other initiatives going forward.[32] We could not confirm this collaboration ever did occur, though we note that the social report referenced was most likely the report so-named in 2002.[33] We could not locate this report for our own review.

Notwithstanding these late-1990s exchanges, significant discussion or mentioning of human rights in the publicly available corporate materials does not begin until 2009. For instance, the term “human rights” appears just once in the BAT’s 2008 Annual Report,[34] and not at all in the 2007 Annual Report (the earliest publicly-available document we identified from BAT’s website).[35] Yet, in the 2009 Sustainability Report – the first such report we could locate – “human rights” garnered 36 mentions with significant emphasis on employee rights and child labour.[36] Human rights feature more prominently in subsequent BAT materials and especially sustainability reports, like the 2010 Sustainability Report where BAT introduces nine human rights indicators for its global reporting.[37]

In 2011 BAT published a statement saying that “our approach draws on the UN Universal Declaration of Human Rights and the Organisation for Economic Cooperation and Development’s (OECD’s) Guidelines for Multinational Enterprises. Human rights criteria are incorporated into our major supply chain management programmes...”[38] The phrase “We have a long-standing commitment to respect fundamental human rights, as affirmed by the Universal Declaration of Human Rights” is repeated with minimal variation in multiple BAT materials.[1, 39–42] In the same vein, BAT said in its 2013 Sustainability Report that “We believe that universally recognised fundamental human rights should be respected... companies should look at human rights as broadly as possible, taking into account wider social, environmental and community impacts arising from the company’s operations and business.”[43] The same – mostly, if not exactly – statement on “universally recognised” human rights also appeared in the 2014 and 2015 Annual Reports and the 2013 Dialogue on Human Rights.[39, 44, 45] BAT does not elaborate on what these human rights are, however, beyond recognition for their existence.

The UN Guiding Principles for Business and Human Rights, promulgated in 2011,[46] became a point for BAT’s stated commitment to human rights in multiple materials.[4, 40, 43, 45, 47, 48] This move was reportedly encouraging to participants in the 2013 dialogue

on human rights, one of whom was quoted as saying “Multinational companies historically addressed rights from a ‘risk to business’ perspective, but the Guiding Principles are asking companies to look at rights from the rights holder’s perspective.”[45] This comment abuts what BAT had earlier concluded, that it could not engage in all social problems outside of their own employees’ work environment, nor be seen to impose Western norms, and was otherwise restricted to what promoted shareholder value.[26, 28, 49] The reviewed materials do not speak to BAT going beyond its own limited holdings with respect to human rights (with one exception, discussed below); where human rights violations are alleged, for example in employing children or in transgressing into slavery-like conditions, BAT’s defence is to deflect such accusations to third-parties and emphasize that BAT encourages – and contractually obligates – its suppliers not to violate labour rights including those for children.[50–53] The exception, emerging from the ESG 2020 report, is a simple statement with great potential: a panel of reviewers recommended that BAT supplement future reports with “an explanation of how BAT views the relationship between human rights and the health risks of its products and makes explicit the part it has to play in reducing the latter.”[19] For its part, BAT responded by acknowledging this recommendation but did not elaborate any further, though as Figure 1 (from BAT’s Human Rights Report published in 2020) demonstrates BAT is aware that human rights concerns go beyond their supply chain.[1]

We found no discussion in BAT’s materials on the right to health, an omission that we can only conjecture upon. Still, our speculations have some circumstantial points of reference, including the exchanges with Amnesty International discussed earlier. The UCSF archives included an interesting letter from Amnesty International’s U.K. Business Group’s Chair (Chandler) to Kenneth Ruston of Imperial Chemical Industries, dated 2 June 1998, wherein Chandler expressed hope that Ruston would sign onto a statement of support for the Universal Declaration of Human Rights that was “deliberately designed to express support for the basic principles, not for every clause in the UDHR.”[54] The letter from Amnesty International U.K. Business Group’s Chair to BAT was not as explicit as the letter sent by the organization to Imperial Chemical Industries, but the exchanges with BAT indicate a similar approach.

BAT and the UN Sustainable Development Goals

BAT positions itself as a champion for sustainable development, and a partner in achieving 240 country goals and targets under the UN Sustainable Development Goals (SDG).[1, 19, 48] While 241 not directly related to human rights, the SDGs are seen as grounded in international human rights 242 law and as means to protect, respect, promote and fulfil human rights.[55] Further, the UN 243 General Assembly passed a resolution in 2015 stating that SDG are based on respect for human 244 rights, and seek to realize human rights for all, including health-related human rights.[56] BAT appears to want to be a part of that conversation and has worked with national authorities, including joining delegations to the United Nations, in setting and achieving goals.[57] SDG3 focuses on promoting good health and well-being,[58] and specifically sets as a target ratification and implementation of the FCTC (which rejects tobacco industry participation and influence in health policymaking). BAT sees its operations, from agricultural to economic investments to social projects that

include resources for child education to its line of e-cigarettes and non-combustible tobacco products, as conducive to SDGs.[1, 19, 48]

BAT, human rights, and tobacco harm reduction

BAT has not claimed a human right to its products, though it generously sprinkles its publications with tacit support for “consumer choice” as seen in Table 1.[1, 2] BAT highlights its line of e-cigarette and non-combustible tobacco products in the discussion of harm reduction and adult choice, and has included this framing of e-cigarettes in materials that otherwise focus or include discussions on human rights.[1] Supporters for e-cigarettes as harm reduction are more inclined to see their cause as one of personal freedom to choose, and access to e-cigarettes as a human rights issue.[59] Some argue the obligations of human rights law as limiting regulation for potentially less harmful products in order to encourage consumers to choose the potentially less harmful product.[60]

Other scholars have scrutinized the tobacco industry’s efforts to commercialize a public health practice.[17, 66] Our results suggest that BAT may have been exploring alternatives-to-cigarettes for many years,[67, 68] culminating in the significant investments and promotion of their “potentially less harmful” products as something that bridges shareholder, consumer, and health interests.[20, 62, 69–72] BAT’s materials are replete with citations to statements from researchers and organizations that proclaim the value of e-cigarettes (whether substantiated, isolation from a larger context, or in any other way), much as they are full of references to ILO, WHO, the UN, and the Universal Declaration of Human Rights.

DISCUSSION

The concept of the right to health and its relationship to tobacco is neither novel nor nascent. [6, 7, 10] For decades, so far as we could determine, BAT kept itself at a distance from substantive human rights engagement and limited itself to a “neutral” role in political and civil rights and encouraging consumer freedom of choice (secondary effects from that choice being not their responsibility). This remains the prevailing theme in BAT’s human rights engagement still; echoing the sentiments of its former CEO Martin Broughton,[2] BAT strongly commits to the individual freedom of choice in its materials. Though recognizing that its products contain an addictive substance and consumers develop an addiction, BAT insists on individuals having the freedom to access these products– and that BAT have the freedom to innovate, and market, its products to meet this demand.[48] Choice to start using tobacco products or to alternate between tobacco products is important to BAT, especially as they indicate no intention to cease the production of combustible cigarettes.[1, 63] BAT has not, so far as the materials we reviewed indicate, made an argument that there is a human rights angle to their products,[59, 60, 73] instead re-treading familiar framings that consumers make individual choices – independent of their informational and social ecosystems.

Whether, and how, BAT responds to the panel recommendation to address the health-related human rights impact of its products in its ESG 2020 report could provide additional insights the company’s approach to human rights.[19] In fact, since the completion of our work, BAT

published the 2021 ESG, and as with previous reports, there are no mentions of the panel recommendation.[74]

BAT's 2020 report confirms the company's ongoing efforts to rebrand themselves. BAT is selective as to which human rights it considers pertinent, and so its claims to be supportive of human rights cannot be dismissed blithely. With respect to some of its business practices we have no reason to doubt that BAT does, as it claims, work to hold several of the sticks in the bundle of sticks that comprise modern human rights – such as labour rights and participation for women and sexual minorities. But human rights are not limited to just those few selections, and BAT does not become a human rights champion for selectively supporting human rights.

In the materials we could access, BAT had no discussions on the right to health. BAT is correct that as a business their prerogative is shareholder value and returns on investment; this is their fiduciary duty, and as a tobacco industry giant their model is one that exploits human health for profit. Recognizing the right to health would be an automatic endgame for the company and perhaps the industry as a whole; knowingly selling a product that is harmful to the user and those around the user undermines achieving the highest attainable level of health. Consequently, BAT, may not be a human rights champion; they cannot choose which freedoms are inherent to every individual and community and ignore the others.

BAT might know this limitation, which circles back to one of our initial questions as to who the audience is for the materials we reviewed. The documents obtained through the Truth Tobacco Industry Archive provide a very limited peek into BAT's internal dialogue on this subject. BAT's public documents, spanning 14 years in our study, accomplish almost as much – they tell us little as BAT tends to copy-paste statements across materials over years, but might be enough for shareholders, or receptive policymakers, or pro-tobacco interests to point to BAT as committed to human rights. Casual mentions without scrutiny of human rights, obligatory denouncements of slavery and child labour, imploring personal freedom to choose BAT products, and statements on sustainability and climate change and even Black Lives Matter might serve the purpose BAT needs them too: to rebrand the company away from its legacy as a profiteer on human health, part of an industry that has lied and deceived to maximize its profits and muddle the research as to the health impacts of its products.[75, 76]

BAT's business model requires new consumers, who must come from somewhere, and BAT wants them to initiate with one of their products and continue to purchase their products to generate revenue.[77] BAT cannot recognize a right to health, or be a champion for this fundamental human right, while engaged in a trade designed to undermine it – whatever it may say or aspire to in its materials, or however often it may express support for the Universal Declaration of Human Rights, and international human rights law. The same is true for Japan Tobacco, despite their own human rights report,[18] and the expressions of support for human rights in the public facing materials of other tobacco companies.

CONCLUSION

BAT launched the industry-first Human Rights Report on Human Rights Day (10 December) in 2020,[1] recycling in this document the same content used in several other reports over the past several years. Rebranding, and repackaging, this material does not ascribe it or BAT any new or more substance. Decades-long repetition of the same lines, charges, quotes, and references does not add depth to BAT's claims of supporting human rights. We believe BAT has no intention to stop selling tobacco and nicotine products and trust them when they say that they will continue to do so. Perhaps this is the extent of what can be asked of any tobacco company and speaks to the limits, and perhaps futility, of entreating with the industry on human rights. Like the Danish Institute concluded after its work with Philip Morris,[11] the industry itself – driven to produce and sell a product inherently harmful to human health – is irreconcilable with human rights, no matter what it may repeatedly say or do to look like anything else. As that one American adage goes: one can put lipstick on a pig – but it is still a pig.

Supplementary Material

Refer to Web version on PubMed Central for supplementary material.

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What is already known on this topic –

The tobacco industry – including British American Tobacco (BAT) – has tried to reframe its image as human rights champions and promoters, with increasing utilization of human rights language in its publications and materials.

What this study adds –

How BAT came to embrace human rights in rhetoric let alone practice has not before been reviewed. We identified that throughout the past nearly 20 years, BAT has engaged in recycling and re-using the same words and terms without significant change in its human rights approach or practices. This result undermines the weight and value of their claims of supporting fundamental human rights.

How this study might affect research, practice or policy –

Demonstrating the repetition and insubstantial examination of its own human rights statements could limit the efficacy of BAT, and others in the tobacco industry, in their attempts to co-opt human rights to advance their commercial interests.

The human rights impacts that matter most

Each issue is represented by a unique icon – these icons feature on the following pages to indicate the issues being covered.

The people who are most impacted by these issues

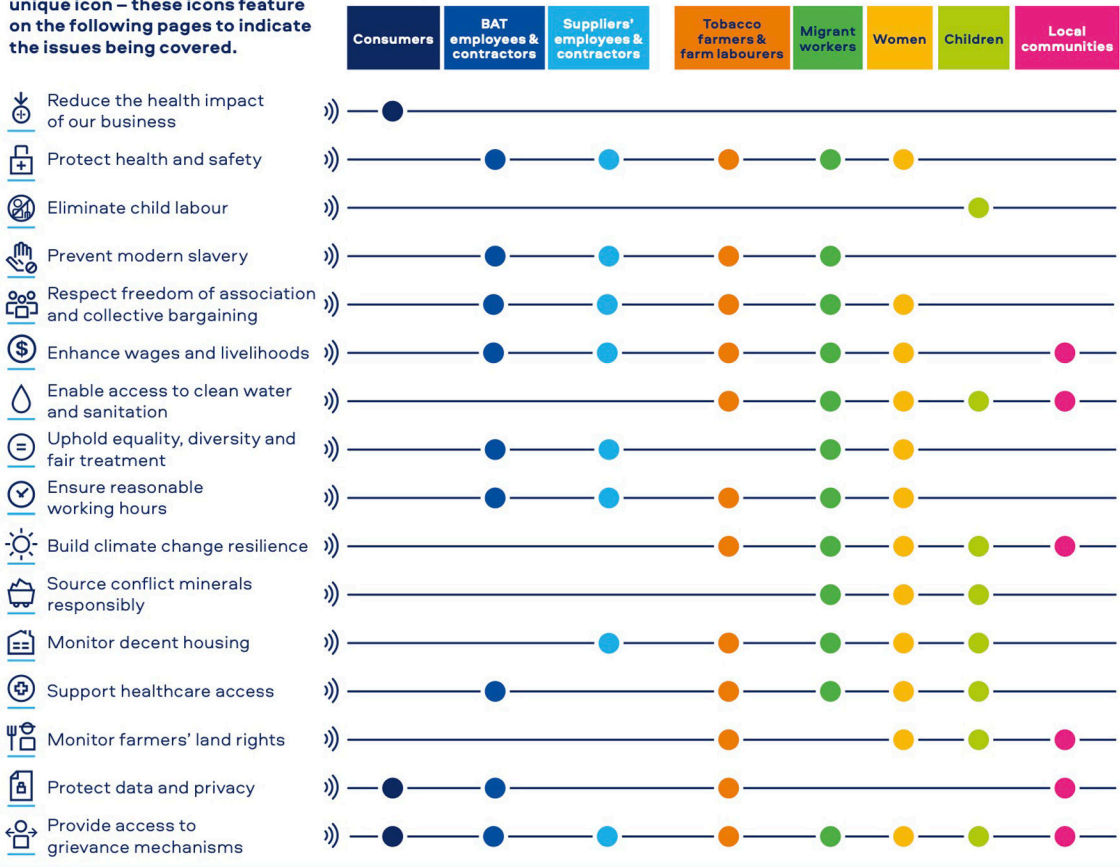


Figure 1.

A visual graphic depicting issues with human rights dimensions incumbent to BAT’s tobacco production and sale (Y axis) and pertinent populations BAT believes is affected thereby (X axis). Notably, BAT alludes to consumers having a human right concern for the health impact of their business, but women and children do not; yet, women and children do have human rights concerns pertaining to clean water and sanitation – core components of the right to health, as clean water and sanitation are necessary for good health. Similarly, the indicator for “protect health and safety” includes several key groups but excludes consumers, children, and local communities.

Table 1:

Examples of BAT's statements on consumer choice

Year	Statement
2019	"Our Sustainability agenda / Creates shared value for / consumers, by responsibility offering them enjoyable and less risky choices to cigarettes." [1]
2019	"We are committed to reducing the health impact of our business...our strategy is focused on making available a broad portfolio of alternative new category products that satisfy consumers by providing pleasure, reducing risk and offering an increasing choice." [48]
2017	"SDG3: Our Transforming Tobacco journey reflects our commitment to harm reduction and to offer consumers a choice of potentially less harmful tobacco and nicotine products." [61]
2016	"This Report charts this progress and looks at the way in which the business has embraced the need to offer consumers a choice of new products, and how we are championing harm reduction and its potential to have a dramatic and positive effect on public health." [62]
2015	"We want to give consumers a choice of a range of different products – from traditional cigarettes to less risky alternatives. So, ultimately, it is the consumer who will decide." [63]
2014	"At the heart of our strategy is our vision to satisfy consumers in tobacco and beyond. We are demonstrating this in our commitment to researching, developing and promoting a range of innovative tobacco and nicotine products to offer adult consumers a choice of less risky alternatives to regular cigarettes. This can ultimately benefit public health, while also supporting the future growth for our business." [44]
2014	"Tobacco harm reduction is about providing a choice of viable, less risky alternatives for the millions of smokers who find it difficult to, or do not wish to, stop using nicotine." [64]
2013	"For adults that choose to continue to smoke, tobacco harm reduction takes a pragmatic approach by offering them the choice of less risky tobacco and nicotine alternatives." [43]
2012	"We know tobacco products pose real and serious health risks and the only way to avoid these risks is not to use them. But many adults choose to smoke, so our top priority continues to be working towards reducing these risks and making available a range of less risky tobacco and nicotine-based alternatives." [65]
1998	"Choice is a vital human right too..." [2]