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Bennett Freeman – Investors and human rights

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Human rights have been a concern to certain investors – especially socially responsible and faith-based investors – for over three decades. The recent death of Nelson Mandela reminded us that South Africa divestment was the cause that crystallized – and galvanized – not only the power of investment to change the world but also the contribution that investors could make to the liberation of a people and nation from apartheid. That divestment movement had its echo in the face of another morally compelling human rights challenge on the same continent ten years ago, when the genocide in Darfur spurred divestment from companies supporting the government of Sudan.

The moral and political impetus behind these movements – along with the growing climate crisis – has had a subtler but no less powerful effect on new generations of investors who may not share a moral or political agendas, and are most concerned with financial fundamentals. To these investors, non-financial environmental, social and governance (ESG) factors are prisms that allow them to see around corners and over horizons, to focus on risks and opportunities that may affect company valuations and investment performance – even as some continue to invest with their values with the additional objective of improving the social performance of individual companies and even entire industries. It is this new context – the convergence of values and valuations – that is putting a sharper focus on human rights as an investment factor across asset classes and to asset owners and managers alike.

Four sectors loom largest with the greatest degrees of both human rights-related risk and opportunity to identify, assess and address them through research, analysis and engagement. Two were on the front lines of scrutiny by human rights activists beginning two decades ago: first, oil, gas and mining companies operating in conflict zones, in countries with repressive governments and unaccountable security forces or in proximity to indigenous communities; second, footwear and apparel plus other retail companies with global supply chains dependent on local manufacturers with exposure to labor rights and workplace safety violations. Two other sectors have come under the second wave of scrutiny beginning a decade ago. One is the information technology and communications sector, with human rights exposure spanning the spectrum from labor rights and workplace safety issues similar to those faced in footwear, apparel and other retail manufacturing industries, to surveillance and censorship threats shared by Internet, telecom plus other computer software and hardware companies. The other is the food, beverage and agriculture nexus of sectors which also face similar human rights issues related to supply chain labor rights, conflict zones and security forces, indigenous communities and land rights.

Not only is there a large degree of commonality of the types of human rights exposures that these very different sectors face, but there is also a growing recognition on the part of investors of the materiality – the potential to affect company valuations – that many of these factors pose. Disruption of oil production in the Niger Delta due to poor governance, community unrest and violent incidents is material to oil companies operating there, as is suspension of a $6 billion mine project in the Andean highlands of Peru due to conflicts over land with local indigenous communities and clashes with security forces. Disruption of supply chains due to labor and safety violations in Chinese consumer electronics factories is material; so too is diminished user trust and political backlash and more tangibly the loss of customers and contracts by U.S. Internet and telecommunications companies in Germany, Brazil and other countries following the NSA surveillance revelations.

Just as there are more internationally accepted normative standards and operational initiatives to help companies and industries address their human rights-related issues and responsibilities, so too these standards and initiatives are becoming increasingly well known by investors as baselines from which to assess that often material risk across their portfolios. And just as the UN Guiding Principles on Business and Human Rights contain a due diligence framework from which to address those risks and responsibilities, so too can that same framework provide investors with the basis to conduct initial due diligence on companies they may own or decide or own. At the same time, investors must appreciate that, while the UN Guiding Principles provide a basic, generic framework for all industries, it is a floor not a ceiling; a complement to, but not a substitute for, the industry and issue-specific standards and initiatives that can and must give even more practical, operational guidance to companies. Investing the Rights Way: A Guide for Investors on Business and Human Rights was published by the Institute for Human Rights and Business in cooperation with the Interfaith Center on Corporate Responsibility and Calvert Investments in 2013 to focus investors on the accessibility and utility of the UN Guiding Principles due diligence framework as well as other recent standards and initiatives that can help investors to identify and diminish risk.

The Measuring Business and Human Rights Project can play a critical and timely role among other similar efforts to focus investors as well as particular companies and whole industries; governments and international institutions; local affected communities and individuals plus other interested stakeholders. Progress in gaining more traction and momentum on the part of business to respect human rights will require commitment, focus and action on the part of each and every one of these actors. Investors have a major role to play as an actor with real “skin in the game” as owners of companies, with an interest both in the valuation of their portfolio holdings and the greater values that we hold together as people.

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