

Enhanced Investor Due Diligence for Conflict-Affected and High-Risk Areas (CAHRAs): South Sudan

Introduction

At Domini Impact Investments, we work to be consistent in the application of our [Impact Investment Standards](#) globally, but certain markets present distinct challenges. In these cases, we conduct enhanced due diligence processes to determine whether companies operating in line with our long-term goals of universal human dignity and environmental sustainability.

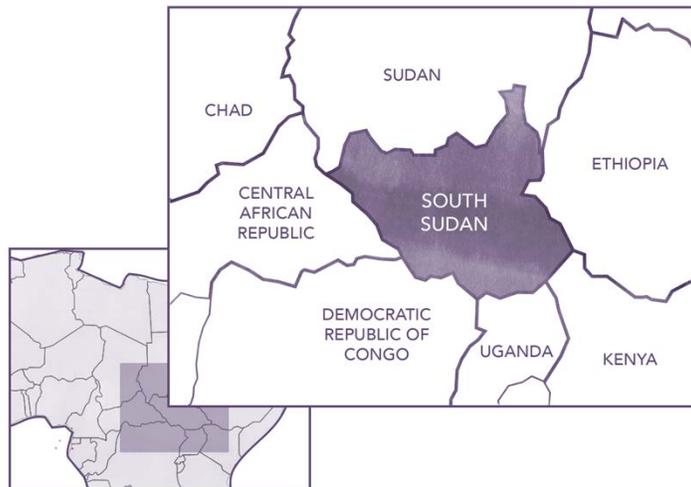
In this paper, we outline the human rights situation in the Republic of Sudan (South Sudan) and explain why and how we perform additional analysis for companies that operate or have ties to business in the country, including the factors that help us determine whether these companies are eligible for investment. Additionally, we illustrate the supplementary actions investors can take to mitigate risk and promote responsible business conduct. We hope it serves as a guide for other investors, and for companies with ties to operations in conflict zones.

The Republic of the Sudan (South Sudan)

After years of conflict with its northern neighbor Sudan, South Sudan's declaration of independence in 2011 was heralded as a new beginning for the war-torn region.

Unfortunately, violence quickly returned. Since December 2013, a civil war between the South Sudanese government and

opposition groups has destabilized the fledgling nation and created a humanitarian crisis.ⁱ Both the government and opposition militias target civilians, often along ethnic lines, causing widespread food insecurity and famine and the largest refugee crisis in Africa, displacing over 4 million people.ⁱⁱ Tens of thousands of people have been killed. As of 2018 South Sudan was ranked as the most fragile state in the world by the Fund for Peace.ⁱⁱⁱ





Two key factors make South Sudan a particularly high-risk environment for business^{iv}:

The struggle for control of oil reserves and other natural resources is fueling the conflict.

Both the government and opposition are kleptocratic in nature and complicit in the ongoing atrocities.

Domini's policy is to assess each company's involvement in South Sudan on a case-by-case basis, rather than issue a blanket exclusion. We consider whether there is evidence that a company's involvement in South Sudan may have a net positive impact. Potentially beneficial operations include companies with contracts with multilateral agencies, including the United Nations, and those providing critical infrastructure and services. Companies that are otherwise involved in South Sudan, particularly in the areas of oil, mining, and the military are considered high-risk, including those that operate in that country through subsidiaries. For these companies that are not already excluded by our military weapons and fossil fuel exclusions,¹ our analysis focuses on each company's degree of involvement with the South Sudanese government and its response to the ongoing civil war and associated conflicts.

Domini and Darfur

Beginning with the Darfur crisis in western Sudan in 2003, Domini adopted a policy of targeted divestment and engagement regarding corporate operations in the region. As in the current conflict, government-backed militias perpetrating genocide in Darfur were financed with oil revenues, making the region a risky area for business involvement.

Domini took a wide range of actions to use our influence as investors to seek to mitigate the crisis in Darfur. We worked with the Sudan Divestment Task Force to conduct research on foreign investment in conflict areas and to perform targeted divestment and engagement. Domini is a founding member of the Conflict Risk Network (now EIRIS Conflict Risk Network), the organization that succeeded the Sudan Divestment Taskforce, and has been serving on its advisory board since 2009. CRN continues to utilize the influence of asset owners and managers to hold corporate actors to their human rights responsibilities and promote peace and stability. See Box, "*Domini's Actions in Response to the Sudan Crisis and Darfur Genocide*," for further examples.

¹ Domini generally excludes from its mutual fund portfolios military weapons manufacturers and fossil fuel owners and producers (the latter group defined as companies that are substantial owners and producers of oil or natural gas reserves and are included in the Integrated Oil & Gas or Oil & Gas Exploration & Production Industries as defined by the Global Industry Classification System (GICS), as well as companies significantly involved in coal mining).

Timeline of Violence

In 2005, following almost two decades of conflict that killed over 2 million people, Sudan and South Sudan signed a peace agreement that included the right to self-determination for South Sudan. In 2011, South Sudan became an independent nation after a referendum in which 98.8% of South Sudanese citizens voted for independence.^v

In December 2013, civil war erupted in the newly formed country when forces in the Sudan People's Liberation Army (SPLA) loyal to President Salva Kiir, a Dinka, and those aligned with his former Vice President, Riek Machar, a Nuer, fought in the capital city of Juba.^{vi} There was longstanding tension between the two leaders, and Mr. Kiir had alleged that Mr. Machar was plotting a coup.

The SPLA was a guerilla force during the war with Sudan consisting of militias organized along ethnic lines and was not adequately professionalized after independence. There has been historical competition between the Dinka and Nuer ethnic groups, mainly for grazing land and water. This ethnic conflict has been exacerbated by drought and the influx of heavy weapons during the war with Sudan.^{vii}

Competition is focused on control of South Sudan's extensive oil reserves, virtually the only domestic source of income, and complicated by a web of pre-existing power struggles.^{viiiix} Oil income was largely spent on maintaining the loyalty of the elites and the military after independence, creating a situation ripe for instability when revenues decreased due to disputes with Sudan and a drop in global oil prices.

The initial conflict was concentrated in the Jonglei, Upper Nile, and Unity regions in the northeastern part of South Sudan. However, starting in late 2015, violence spread to previously stable areas, including the greater Equatoria region which had been the breadbasket of the country.^x

A peace agreement creating a transitional national unity government was signed in August 2015, but fighting and extensive abuses against civilians have continued unabated and have spread in the last two years.^{xi} The agreement called for elections to be held by July 2016, but they have been postponed.^{xii} A ceasefire



Domini's Actions in Response to the Sudan Crisis and Darfur Genocide

CORPORATE ENGAGEMENT

2007

Domini joined other investors and NGOs in meetings with US banks to discuss their responses to the crisis. One bank adopted a formal policy on Sudan in response.

2008

Domini joined a wide range of civil society organizations and investors in a letter to the UN Global Compact, seeking the expulsion of a state-owned oil company from the signatory list due to its operations in Sudan.

2009

Domini became a founding member, and joined the Advisory Board, of Conflict Risk Network (CRN), the successor organization to the Sudan Divestment Task Force.

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agreement was signed in December 2017 but was immediately violated.

Continuing Human Rights Violations

The ongoing civil war has been marked by crimes against humanity committed with virtual impunity.^{xiii} Both sides have intentionally targeted civilians and civilian property to flush out opposition fighters and exact revenge for attacks. The African Union, United Nations and civil society organizations including Amnesty International and Human Rights Watch have documented mass rapes and rampant sexual violence, targeting of civilians along ethnic lines, and the use of child soldiers.^{xivxv} Arbitrary detention, torture and enforced disappearances, extrajudicial killings, and other war crimes have been widespread.^{xvi} These conditions have caused an internal and external refugee crisis of massive scale. UN officials have warned that this conflict is an ethnic war with the potential for genocide.^{xvii} In December of 2016, the chair of the UN Commission on Human Rights in South Sudan warned of “a steady process of ethnic cleansing underway in several areas of South Sudan using starvation, gang rape and the burning of villages.”^{xviii} In many cases, intercommunal tensions have been purposely seeded.^{xix}

The use of rape as a weapon of war is widespread, affecting thousands since the beginning of the conflict.^{xx} According to one 2015 United Nations Population survey, seventy-two percent of women living in U.N. Protection of Civilian (PoC) sites in the capital city of Juba had been raped, mainly by soldiers and police. Many victims were selected based on their ethnicity. There has been little to no physical or mental care available to survivors, and little to no consequences for the perpetrators.

The conflict has been particularly devastating for children. Both the government and opposition forces have forcibly recruited and used more than 19,000 child soldiers over the course of the war and over 2,300 children have been killed, injured or assaulted. Education has been significantly disrupted. According to the UNOCHA, of those schools that remain open, thirty-one percent have been attacked, and seventy percent of children are unable to attend school.^{xxi} Over a million children under five are acutely malnourished, and at increased risk for malaria and cholera as well as psychological distress. These conditions could lead to a ‘lost generation,’ and causing peace and stability to be even more elusive.

2010

- Domini initiated an engagement with an oil company and its joint venture partner regarding their alleged complicity in a series of atrocities against community residents near a drilling site in southern Sudan, near Juba.
- Domini joined CRN in writing to 18 oil & gas and telecommunications companies operating in Sudan, asking them to take steps to ensure protection of human rights during the upcoming public referendum.
- We initiated an engagement with a Swedish industrial equipment firm regarding its sales of mining equipment to Sudan. The engagement evolved into a multi-year dialogue involving other investors and CRN. The firm ultimately initiated a human rights due diligence process in Sudan and elsewhere, which included the publication of case studies in high-risk countries.

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A man-made famine is occurring in large swaths of South Sudan.^{xxii} In February 2017 the UN declared that 100,000 people were at immediate risk of dying from starvation.^{xxiii} Currently more than half the population of six million people are severely food insecure.^{xxiv} Both sides have blocked aid and food to drive people from their home areas. Those carrying food have been accused of supplying the enemy and are often raped or killed.^{xxv} The fertile Equatoria regions, spared earlier in the war, have been the site of intense violence in the past two years, leaving it almost deserted.^{xxvi} Homes and fields have been burned and looted. This loss has crippled South Sudan's food production.

International and civil society groups have been facing enormous challenges in stemming the violence or providing aid. The government has obstructed relief efforts.^{xxvii} Militias and government troops have targeted aid workers and UN camps. According to the UN, 28 aid workers were killed in 2017.^{xxviii} Journalists, civil-society organizations and those perceived as political opponents have also been specifically targeted with violence and censorship.^{xxix} UN Mission to South Sudan (UNMISS) peacekeepers are attempting to protect civilians, but fighting has broken out at UNMISS Protection of Civilian sites.^{xxx} The deployment of the UN-mandated Regional Protection Force was authorized in 2016, and phased deployment began in August 2017.^{xxxi} The U.N. estimated that 7 million people needed immediate aid in December 2017.^{xxxii}

The burden of the crisis has been shared by neighboring countries. Uganda alone hosts a million refugees from South Sudan.^{xxxiii} The conflict is destabilizing a region that is home to the U.S.'s key East African counter-terrorism partners. There is a significant risk that these allies may become entangled in a larger regional war or resource grabs if the South Sudanese situation devolves further.^{xxxiv}

Economic and Governance Challenges in South Sudan

South Sudan has one of the weakest economies in the world, and is almost fully dependent on oil revenues, which are expected to be negligible by 2035.^{xxxv} The country has limited infrastructure, including fewer than 313 miles of paved roads. None of its three power plants are working at full capacity and the country is almost fully dependent on diesel-run generators for electricity.^{xxxvi}

2012

We joined CRN in reaching out to a US heavy equipment manufacturer regarding its involvement in Sudan through foreign subsidiaries.

PUBLIC POLICY

2005

We produced an action alert in support of the Darfur Accountability Act which generated more than 1,200 emails from Domini Funds shareholders and others to the U.S. President, State Department, U.N. Ambassador and Congressional representatives.

2008

Domini briefed the Congressional Human Rights Caucus on what investors can do to implement policies addressing genocide and other crimes against humanity. We were the only financial services representative present at the briefing (<https://www.domini.com/genocidedefreeinvesting>)

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Corruption is endemic and a threat to self-governance. There are no strong institutions in the country, and those that exist serve to control and extract wealth. It has been suggested that corruption is the purpose of the South Sudanese government, rather than a contamination within it.^{xxxvii} Close family members of President Kiir and his brother-in law General Gregory Vasili hold stakes in many commercial ventures operating in South Sudan, though this is prohibited under South Sudanese law. Their family members, as well as those of other top generals, have interests in companies operating in oil, mining, construction, engineering, gambling, banking, telecommunications, aviation, and government and military procurement.^{xxxviii} The elites and military have enriched themselves under cover of the chaos of the civil war, plundering extensive oil and resource wealth and creating illicit business networks. President Kiir, former-Vice President Machaar and other top officials own millions of dollars in real estate.^{xxxix} There are thousands of non-existent ‘shadow-soldiers’ on the payrolls of the military, and the military budget is bloated and opaque but generally funds kleptocratic patronage networks, rather than paying individual soldiers.^{xl} Auditing is legally mandated but virtually impossible and oversight mechanisms are undermined by those in power.^{xli}

The U.S. Treasury department has imposed sanctions on three individuals close to the President and six military officers, but civil society groups recommend more and broader sanctions against the networks of men responsible for the violence. Information is widely available about these figures and their networks, including leaders of both the government and opposition, many of their top generals, and the foreign individuals and institutions that facilitate them.

2010

We participated in a Government Accountability Office (GAO) [study](#) on the effectiveness of the Sudan Accountability and Divestment Act. In addition to responding to questions from GAO staff, we provided the GAO with the list of companies that failed our Sudan policy, one of only three entities to do so.

We testified before the House Committee on Financial Services’ subcommittee on International Monetary Policy and Trade on what investors and regulators can do about genocide and other human rights abuses. The hearing focused on findings from the GAO report noted above (<https://www.domini.com/dominitestifiesongenocide>)



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The Role of Investors and Corporations

Investment can play a positive role in providing desperately needed services and opportunities for development, but the capacity for harm is also high. For Domini, this dynamic means we devote extra scrutiny to high risk sectors and regions and look for positive actions rather than using blanket exclusions.¹ We updated our policy on Sudan and South Sudan in January 2017 and continue to closely monitor any new developments and company activities.

Domini's Enhanced Due Diligence Process for South Sudan Country, Sector, and Company-Level Review

1

Step 1 - Country-level Risk Assessment

Evaluate risks to companies and investors, with consideration for the overall environment of widespread bribery and corruption, weak institutions and legal system, and reoccurring violent conflict and human rights abuses.

Legal and Regulatory Risk:

- Exposure to widespread human rights violations, including violations of international humanitarian law or *jus cogens*² violations such as genocide, war crimes and crimes against humanity, as well as linkage to other actions with potential adverse impacts on human rights;
- Exposure to extensive bribery and corruption. South Sudan scored 182 out of 183 countries on Transparency International's Corruption Perceptions Index for 2017, ahead of Somalia;
- Risks of violating existing sanctions through illicit flows of capital and goods;
- Weak rule of law, including an ineffective judicial system; and
- Litigation risks from government, investors, civil society groups and victims.

² *Jus cogens* refers to "certain fundamental, overriding principles of international law, from which no derogation is ever permitted." https://www.law.cornell.edu/wex/jus_cogens.



Reputational Risk: Linkage to severe human rights violations could lead to boycott, divestment and deterioration of employee morale.

Physical and Operational Risk: Employees, contractors and physical assets might be at risk. Corporate use of private security firms to protect physical assets can involve companies in severe human rights violations. Local communities adjacent to operating sites might also be targeted.

Interconnectivity: Understanding the interconnectivity and possible compounding effects from the interaction of these three core risks is critical to a full assessment.



Step 2 - Sector/Industry-level Risk Assessment: High Risk Sectors

All business operations in South Sudan are hampered by a corrupt judicial and police system and significant bribery risk in public services, land administration, tax administration, and public procurement, but there are also sector-specific issues:

Extractives, particularly oil and gas: Since oil and gas extraction is the primary economic activity of South Sudan, control of the industry and its profits is the main source of conflict within the country. Revenues and related contracts for oil and gas extraction go directly to government and military figures responsible for the ongoing instability. The current conflict began as an attempt to consolidate control over the industry and there is currently little incentive for peace, as that would mean sharing control over oil and gas revenues. Oil or mining infrastructure and other physical assets can often be targeted for the attacks, looting, seizure as well as the destruction, all of which have implications for employee safety as well including killings and kidnappings.^{xlii}

Domini categorically excludes fossil fuel owners and producers from our portfolios due to our concerns regarding climate change, human health, and environmental degradation.

Weapons and other military procurement: Investors and financial institutions should enhance their due diligence in this fraught sector and consider that any influx of weapons to the region is likely to destabilize it further.

At the beginning of 2016 a panel of UN Security Council experts determined that, “both sides have continued to seek to arm their forces, even after the signing of the peace agreement. The continued influx of arms has had a devastating impact on civilians and on the overall security situation in the country.” Yet in December of 2016 the UN Security Council failed to pass an arms embargo on South Sudan and weapons from abroad



continue to fuel the violence. Amnesty International recently uncovered a \$169 million arms deal to supply South Sudan between a United Arab Emirates-based weapons supplier and a Ukrainian-owned arms company, through a UK-registered shell company.

Domini categorically excludes military weapons and firearms manufacturers from our portfolios.

ICT, including telecom, internet and technology hardware: While telecommunication networks are vital infrastructure, they are often used by governments as tools for censorship and surveillance. Governments around the world have also sought to control communications around critical civic events, such as elections, by instituting network shutdowns as in the case during the Arab Spring in Egypt in 2011 as well as Sudan in 2013.^{xliii} Fake news and hate speech in the social media have reportedly been used to instigate violence in South Sudan, particularly along ethnic lines.^{xliv} Telecommunication and other ICT sector firms operating in the region should demonstrate an awareness of these risks and a commitment to undertake appropriate human rights due diligence and mitigation, where possible. The Global Network Initiative is a recommended resource, as is the human rights organization Access Now.³

Transportation, including railways, airlines and marine shipping: Illicit inflow and outflow of both capital and goods, including arms or other prohibited goods, as well as human trafficking, is a substantial risk. As in the case of the extractives sector, large-scale infrastructure and related assets such as trains and airplanes have been targeted for attacks and seizure, placing employees and customers at risk.^{xlv}

Consumer Discretionary, such as automobiles and components: Vehicles can be used for military purposes, and components can be used for military vehicles or by other armed groups. In Darfur, the Janjaweed government-backed militia used light trucks manufactured by European and Asian manufacturers in their coordinated attacks.^{xlvi}

Materials and wholesale trading: These operations present corruption risks as well as potential human rights violations including forced displacement of civilians and forced labor, including child labor, particularly in upstream operations. Trade of specific goods and materials can be restricted by multilateral as well as unilateral sanctions.

Construction: Construction presents a range of risks, including bribery, land grabs, forced displacement, and forced labor, particularly in large-scale projects commissioned by the government or major industries.

³ www.globalnetworkinitiative.org; <https://www.accessnow.org/>

Utilities: While playing a critical role by providing necessities such as water, electricity and heat, utilities often involve large-scale construction and operations, and the construction and operations of these facilities can negatively affect people in the surrounding communities even during the post-conflict phase. To avoid ill effects, proper processes must be in place such as free, prior and informed consent by communities. During the construction phase, there are ample risks of forced labor and displacement, along with the destruction of arable land and other ecosystems that could destroy the livelihood of the local population, as occurred in the case of the Merowe Dam in northern Sudan.^{xlvii} During the operational phase, providing discriminatory access to certain groups or sectors would pose human rights risks. Additionally, existing infrastructure can be targeted for destruction, tactical blackouts or seizure, particularly by opposition groups. Given that utility infrastructure can last for decades, companies involved must also consider the long-term environmental and human health impacts of their operations.

Hospitality, mainly hotels and resorts: In addition to providing accommodations for aid workers and diplomats, these facilities may be entangled in human rights violations by third parties including the military and other armed groups. These facilities are often used as sites for prostitution, which could include exploitation of children and youth. Further, workers involved in the construction and operation of these facilities may be exposed to a range of abuses, including attacks both by the government and opposition forces.

Agriculture: Most South Sudanese depend on agriculture, fishing, or herding for their livelihoods. This sector has significant potential for long-term growth. While 70% of South Sudan's land is suitable for agriculture, only 4.5% is cultivated, according to the African Development Bank.^{xlviii} There have been numerous reports of large-scale land grabs, allegedly often involving private investment including capital from the U.S. and Europe, often promoted by the government. Soldiers are also accused of direct involvement in land grabs. Separately, there are recurring land grabbing incidents as a part of communal and ethnic conflicts. There is thus ample risk of complicity with land grabs and associated violence in the agricultural commodities sector if thorough due diligence is not conducted, even after the current conflict has ended.^{xlix}

Financials, both banks and insurance: Financial institutions play a pivotal role as 'enablers' of business operations by providing capital and insurance for the companies operating on the ground, and therefore take on the responsibility to conduct enhanced due diligence to ensure that they are not contributing to abuses. Banks can also enable corruption and money-laundering by facilitating transactions on behalf of corrupt officials and other politically exposed persons. In such an environment of rampant corruption, financial institutions must institute enhanced anti-money laundering procedures. Under the UN Guiding Principles on Business and Human Rights, financial institutions should seek

to enhance their leverage, where possible, to avoid and mitigate human rights abuses to which they may be linked. In the face of potential genocide, banks and other large financial institutions should make a greater effort to meet their responsibility to respect human rights than what they need to do in a “normal” operating environment.



Sector Case Study: Banking

Currently in South Sudan, chaos pays. Top leaders have made huge fortunes off South Sudan’s natural resources and illicit contracts with the state and foreign entities under the obscuring cover of disorder. To end the violence, the calculus must be changed so that stability and institution building are incentivized because wealth extraction from South Sudan is no longer profitable or possible.

Outside actors must not tolerate commercial or banking arrangements that funnel wealth to South Sudan’s kleptocratic networks. Banks must work alongside governments to take stronger anti-money laundering measures and enact asset freezes of the networks of politically exposed persons. Top South Sudanese officials have been able to move money with ease, even after UN asset freezes. Sanctions should further target the networks of top decision-makers and their facilitators and be robustly enforced.

Certain international banks and financial institutions have been involved in the transfer of state assets and ill-gotten funds out of South Sudan. Many of the assets in question are held in U.S. dollars which pass into the U.S. financial system, giving the U.S. government jurisdiction. The Department of Treasury’s Financial Crimes Enforcement Network should target real estate purchases by senior officials, which are a central means of money laundering by both sides.¹ Kenya, Uganda, and Ethiopia should be encouraged to take a more active role in enforcing asset freezes and combatting laundering. Kenyan banks hold most of the ill-gotten wealth, but the US government and companies hold sway with Kenya and its neighbors as allies and trading partners. Investors can call upon both banks and governments to act and uphold their obligations to respect human rights and perform appropriate due diligence.

3

Step 3 - Company-level Assessment:

After considering the government and industry context, Domini turns to an analysis of each company's involvement in South Sudan. It can be very difficult for us to obtain reliable information on corporate human rights performance generally. Information on corporate ties to conflict zones is even more difficult to acquire. The following are some of the questions we raise and factors we consider in evaluating corporate performance, including a few "best practice" expectations. In virtually all our evaluations of corporate performance, we are looking to understand whether the company is working to address the key sustainability challenges it faces.

Whether the company has enhanced due diligence and disclosure.

Does the company have a human rights policy? Is the company conducting and disclosing environmental and social risks in its supply chain? Does the company perform human rights impact assessments? Does the company have a process to ensure that senior management receives accurate and timely information about conditions on the ground? Does the board of directors exercise oversight of the company's human rights performance? Does the company have a meaningful grievance mechanism in place? Does it integrate human rights principles into company practices and track and report on this integration? Domini recommends that companies use the UN Guiding Principles Reporting Framework to convey this information to investors.⁴

Whether the company has been involved in specific problematic incidents or there is a history or pattern of problems.

Domini does not rely solely on corporate reporting to evaluate risks. Governmental reports, media, and expert NGOs are consulted to identify patterns of behavior. However, given the extremely high-risk environment of South Sudan, absence of controversy is not taken as proof of risk-free operations.

The structure of the business and its relationships.

Given South Sudan's extensive kleptocratic networks, Domini evaluates the potential risks arising from the company's business partners and contracts, to the extent this information is available. In the absence of laws requiring disclosure of an entity's beneficial owners, companies with global operations can contractually require that their suppliers and business partners disclose this information to the company to enable meaningful due diligence.

⁴ Please see <https://www.ungpreporting.org/> for the full Framework and related resources.

Who benefits from the company's products and services?

Domini examines whether the company's operations offer the opportunity to create broad public access and benefits, or whether they appear to extract wealth from society with benefits accruing to a select group.



Our analysts gather and analyze this information to get a picture of the impact of a company's operations. We also consider positive efforts to promote stability. These may include:

- + **Participating in or supporting institutional capacity building.** Examples include active involvement in multi-stakeholder initiatives, particularly those that support peace, justice, transparency, and protection of civilians.
- + **Providing educational or vocational training** to employees and local communities.
- + **Providing access to products and services** to disadvantaged communities.
- + **Promoting international human rights standards,** including in its supply chain and business partners.
- + **Taking action towards mitigation and remediation** of adverse impacts. As outlined in the UN Guiding Principles on Business and Human Rights, companies have an obligation to monitor their salient (or leading) human rights risks, mitigate potential impacts and remediate any actual impacts that they cause or contribute to.

Strategies for Positive Impact: Recommendations for Investors

There are four major categories of actions investors can take to address high-risk business environments such as South Sudan:

Investment Due Diligence



Fiduciaries have an obligation to actively monitor the companies in their portfolios, and to act to address risks, including human rights risks, when they arise.

First, investors should take steps, such as those contained in Domini's enhanced due diligence process described above, to assess their exposure to the unique human rights presented in all regions, but with focus on regions such as South Sudan that are torn by conflict. These steps can help investors to mitigate potential risks to their investments.

Institutional investors should be transparent about the policies and procedures applied to investments in conflict zones, across asset classes. These disclosures help to communicate expectations on business from a particularly important and influential set of stakeholders. These investor policies should be aligned with international human rights norms and informed by the UN Guiding Principles on Business and Human Rights.⁵ Investors should be aware of rising expectations being placed on them to understand and seek to address human rights risks to which they may be exposed by their investments. In this regard, the OECD's "*Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises*" can serve as a helpful resource.

Corporate Engagement



When companies have operations in a high-risk and conflict-affected environment, investors are in a unique position to work with them to understand and mitigate these risks. For many investors, this may be preferable to selling their shares, and can result in significant positive impacts.

Continued

⁵https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf



Human rights engagements should be primarily focused on reducing and remediating risks to individuals or communities, as opposed to risks to the business. Although the risks to the business may be the motivating factor that convinces a company or an investor to act, these risks cannot ultimately be addressed without ensuring respect for human rights. This requires a somewhat different conception of risk than many investors are used to applying to their portfolios.

There are numerous opportunities for investors to work together to address these issues, including the UN-backed Principles for Responsible Investment, the Investor Alliance for Human Rights, the EIRIS Conflict Risk Network, the Interfaith Center on Corporate Responsibility, and others. Collaboration can be an effective way to share lessons learned, reduce the burden on individual firms, and present companies with a consistent set of requests, backed by a substantial asset base.

There are also several human rights organizations with on the ground knowledge of issues in South Sudan that investors can learn from and collaborate with.

Public Policy and Standard Setting



While investors have an important role to play in influencing company operations, governments bear the primary responsibility to protect human rights. It is often a failure of government or public policy that creates serious risks to long-term sustainable investment. Investors can therefore play an important role by bringing a private sector perspective to these public policy issues.

As noted above, Domini has participated in several related public policy initiatives. These have included support for greater transparency to combat illicit financial flows, such as beneficial owner transparency, and providing input during the consultation processes for the High-Level Review of the United Nations Sanctions Regime. Domini also actively participated in a variety of consultations on the development of the landmark UN Guiding Principles on Business and Human Rights and served on the Eminent Persons Group that advised on the creation of the UN Guiding Principles Reporting Framework.

Awareness Raising



Because investors have an obligation to monitor their holdings and constantly be on the look-out for emerging risks, we can be among the first to be aware of issues. This provides us with an opportunity to bring underreported problems to our peers and clients through research and education. These efforts can help to place additional pressure on companies and governments to act and can help to facilitate coordinated action.

These strategies and tactics can help mitigate risk to investment portfolios, while also improving the business and human rights environment on the ground. By using the tools described here, investors have an important opportunity to contribute to UN Sustainable Development Goal (SDG) 16: Peace, Justice, and Strong Institutions.

Conclusion

South Sudan presents a difficult environment for responsible business operations and development. The risks for businesses and investors are serious and pervasive. Substantial due diligence and engagement must be undertaken to seek to ensure that foreign direct investment in South Sudan contributes to peace and stability in the region and, at a minimum, does not contribute to the crisis.

While investors continue to implement targeted divestment regarding Sudan (North Sudan) in compliance with U.S. law, the public and governmental level of awareness and action around South Sudan has been significantly lower.

The environment for business and investment cannot improve while the conflict, and its root causes, persist. If the failed peace process is revived, incorporating more diverse stakeholders, there may be hope for progress. While recent steps toward a peace deal and power sharing agreement may have promise, the human rights environment in South Sudan is still poor, and even after a new government is formed many of the risks to investors will remain. At that point, investors will have another important role to play: providing the capital and opportunities for sustainable development of the young nation.

We are grateful for the detailed comments provided by several organizations on earlier drafts of this paper. In particular, we would like to thank Joanne Bauer, Columbia University, Rachel Davis, Shift, and Coziana Ciurea, Vigeo Eiris Conflict Risk Network (CRN).



The views and opinions expressed here are those of Domini Impact Investments alone and may not necessarily reflect the views of any of these reviewers or their organizations. All errors and omissions remain the responsibility of Domini.



About Domini Impact Investments

Domini Impact Investments LLC is a women-led SEC registered investment adviser specializing exclusively in impact investing. We serve individual and institutional investors who wish to create positive social and environmental outcomes while seeking competitive financial returns.

We apply social, environmental, and governance standards to all our investments, believing they help identify opportunities to provide strong financial rewards to our fund shareholders while also helping to create a more just and sustainable economic system.

Visit www.domini.com or call 1-800-582-6757 to learn more

ⁱ Human Rights Watch, *World Report, Country Chapters, South Sudan Events of 2016*, <https://www.hrw.org/world-report/2017/country-chapters/south-sudan>

ⁱⁱ UN News Centre, *Warring parties in South Sudan show 'little interest' in pushing peace process forward – UN envoy*, September 26, 2017, <http://www.un.org/apps/news/story.asp?NewsID=57745#.Wc0RLluPKCg>

ⁱⁱⁱ Fund for Peace, *Fragile States Index, 2017*, <http://fundforpeace.org/fsi/>

^{iv} *War Crimes Shouldn't Pay: Stopping the looting and destruction in South Sudan*, The Sentry, September 2016, https://cdn.thesentry.org/wp-content/uploads/2016/09/Sentry_WCSP_Finalx.pdf

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