Conclusion

For the majority of companies, respecting human rights is a question of will. Companies have access to the resources, the instruments, the tools and the external support to enable them to meet their responsibility to respect human rights – if they decide to use them. In high-risk countries, it is not so simple. Companies may adhere to the law and follow best practice and still find themselves struggling to meet their commitments.

Companies are dependent on the environment in which they operate. The corporate responsibility to respect human rights may exist independently of the State’s duty to protect, respect and fulfil, but a company’s ability to meet that responsibility will be heavily influenced by State behaviour. If government cannot or will not meet its human rights responsibilities, then a company cannot do so – or at least cannot do so across the full range of its impacts. This is firstly because the State is among any company’s core relationships, and under the ‘Protect, Respect, Remedy’ framework this confers some responsibility on companies for the impacts of certain government actions. Secondly, State failure to regulate and control the activities of third parties means that even the most diligent companies will inevitably find themselves working with or alongside businesses and other institutions that are breaching human rights responsibilities. Finally, government neglect (or worse) of its citizens’ civil and political, and social, economic and cultural rights will exacerbate any harmful company impacts and simultaneously prevent the company concerned from acting effectively to mitigate them.

For all these reasons, high-risk countries are defined by the nature of the State. A predatory or ineffective government will pose risks to a company but, equally importantly, will increase the risks posed by a company. Some will assume that this will allow companies to evade their own responsibilities by blaming government. Others will conclude that companies should withdraw from such societies.

Neither of these views accurately describes reality. High-risk countries demand from companies a higher level of rigour, creativity and sensitivity than elsewhere. At the same time, high-risk countries need responsible investment. The economic, social and political benefits companies can bring to such societies should not obscure, or be obscured by, the economic, social and political harms that companies can inflict.

The conclusion of this report is that companies operating in a high-risk environment have a particular responsibility to influence that environment, within the bounds of their own impacts. This is the additional responsibility which the decision to invest in such countries places upon companies. Drawing upon the UN Special Representative’s analysis, this supplementary responsibility includes the duty to know, do and show. A company needs to fully understand the direct and indirect risks that arise from poor governance, and needs to act on that understanding by managing and supporting appropriate State interventions as necessary. Finally, it needs to be transparent (in so far as this is possible) by explaining the dilemmas it faces and discussing the measures it is taking to address them. Together, these three forms of response will reduce risks and enable a company to meet its responsibility to respect human rights in high risk countries.
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