


FOODFOR THOUGHT INVESTINGINA SUSTAINABLE FOOD SYSTEM







1. INTRODUCTION

Big supermarkets and corporate food giants dominate global food markets, resulting in the concentration of power and the commercialization of agriculture. The current business model is unsustainable; progress has come at the cost of global inequality and climate change, both of which will ultimately impact companies' bottom lines.

Food companies command land, labour, and financing to produce, process, distribute and sell products. Because of the imbalance in power, companies can violate rights by transferring costs to workers, suppliers, communities, and the environment. They profit as workers and farmers in their supply chains struggle to earn a living wage, women are marginalized, communities' resources are usurped and rights violated, and the environment is degraded and destroyed.¹ Companies thereby reap short-term gains, but their decisions can bear long-term costs, some of which have emerged during the COVID-19 pandemic:

- Poor health and safety measures for workers, resulting in high infection rates and deaths, which have contributed to labour shortages.²
- Plant closures that have led to backlogs in farms, impacting harvesting and production.³
- Supply chain disruptions leading to significant food waste during a period of high demand.⁴
- Increased deforestation, as land is illegally seized from local communities, potentially resulting in higher international scrutiny, limited access to finance, risk of asset stranding and market access risks.⁵

The demand to drive down short-term costs to drive up stock prices, capture huge benefits in the capital markets and deliver results for shareholders can prevent a company from investing in people and building resilient supply chains, which can impact investment returns. This short-term focus can result in rights violations against suppliers and workers, avoided taxes and damage to local communities and the environment. These in turn can increase legal, regulatory, operational and reputational costs for companies. Ultimately, harmful impacts on people can result in material risks for businesses.

Investors can and should uphold human rights in their investments by adopting the international standards outlined in the UN Guiding Principles on Business and Human Rights (UNGPs)⁸ and the Organisation for Economic Co-operation and Development (OECD) Guidelines on Responsible Business Conduct for Multinational Enterprises (OECD Guidelines).⁹ Under the UNGPs, private sector actors, including investors, have a responsibility to incorporate adherence to and respect for human rights in their actions. The OECD Guidelines provide a pathway for businesses and investors to fulfil their responsibilities under the UNGPs through human rights due diligence (HRDD) actions.¹⁰

HRDD refers to all processes that companies can put in place to manage human rights impacts caused or potentially caused by their operations, products, services, or business relationships. ¹¹ According to the OECD, HRDD actions that investors should consider include: ¹²

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- 1. Embedding responsible business conduct into policies and management systems.
- 2. Identifying and assessing actual and potential adverse impacts associated with an enterprise's operations, products, or services.
- 3. Ceasing, preventing, and mitigating adverse impacts.
- 4. Tracking implementation and results.
- 5. Communicating how impacts are addressed.
- 6. Providing for or cooperating in remediation when appropriate.

BOX 1: THE BENEFITS OF HRDD FOR INVESTORS

HRDD:

- Helps quality information flow downwards and upwards throughout the supply chain, enhancing cooperation, transparency and accountability and reducing risk;
- Informs investment decisions on an ongoing basis, minimizing financial risks;
- · Sheds light on potential blind spots across value chains;
- Builds bridges between real-world outcomes and financial risk, helping companies understand how to secure the social license to operate; and
- Fosters better operational performance across the entire value chain, contributing to post COVID-19 recovery and resilience to future external shocks.

Human rights are an increasingly important 'S' component of environmental, social and governance (ESG) criteria. The COVID-19 pandemic has shone a light on the 'S' and presents an opportunity for investors to reshape this narrative and compel companies to emerge better from the crisis.

The pandemic and impending legislation in Europe on mandatory human rights due diligence (mHRDD) has resulted in overwhelming support for advancing the debate on human rights. ¹³ HRDD can increase the robustness of corporate risk management processes, reduce human rights violations, and help investors focus on achieving better returns. ¹⁴ This paper makes the case for investors to act on human rights, answering:

- · How can human rights violations in food value chains impact investors?
- How do investors drive human rights violations in food value chains?
- What can investors do to fulfil their responsibilities under the UNGP and protect their investments in food value chains?

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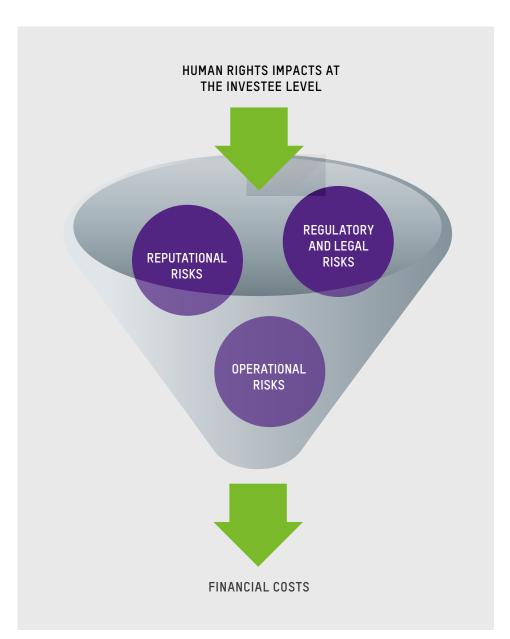
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2. THE EFFECT OF RIGHTS VIOLATIONS ON INVESTORS IN THE FOOD SECTOR

Respect for human rights is no longer a 'nice to have'. It is becoming abundantly clear that human rights violations can affect companies' operations and supply chains – posing reputational, operational, regulatory, and legal risks. Left unaddressed, human rights impacts may cost businesses financially, affecting returns to investors in the long term. To avoid their effects, companies must identify, address, and mitigate their human rights impacts.

FIGURE 1: COSTS TO INVESTORS FROM HUMAN RIGHTS VIOLATIONS



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2.1 RISKS OF HUMAN RIGHTS VIOLATIONS TO INVESTORS

Regulatory and legal risks

Human rights impacts are poised to increasingly result in fines and/or lead to expensive legal proceedings for companies. Investors should take note of potential changes to regulation and legislation on human rights obligations in countries where companies are headquartered.

The EU is introducing a Directive on Sustainable Corporate Governance that will steer companies toward long-term sustainable value creation; mHRDD is a central part of this upcoming legislation. ¹⁵ Under the Directive member states can impose administrative sanctions on violators or hold them financially liable for human rights harms. ¹⁶ Individual countries in Europe have either implemented or are crafting human rights legislation. ¹⁷

In the United States, the Alien Tort Statute provides a means to hold companies accountable for misconduct occurring across the supply chain, even if they have only 'aided and abetted'. ¹⁸ In 2005, eight children filed a case against food and beverage companies for alleged human rights violations abroad under the statute; although the case was reversed and remanded by the US Supreme Court, the latter found that the statute can be used to hold corporations accountable. ¹⁹ Further, under the US Tariff Act, US Customs and Border Protection (CBP) can prohibit the import of a product when it has sufficient information that the product was mined, produced or manufactured, wholly or in part, by forced labour. ²⁰

The US government is increasingly scrutinizing the human rights conduct of US companies abroad. In July 2020, the Departments of Commerce, Homeland Security, State and Treasury issued a joint advisory on the 'Risks and Considerations for Businesses with Supply Chain Exposure to Entities Engaged in Forced Labor and Other Human Rights Abuses in Xinjiang', advising businesses either operating or using entities that use labour in Xinjiang or China to implement HRDD policies and processes.²¹ Consequences are being felt: in January 2021, the Department of Homeland Security has announced that it would block all imports of tomato products from the Xinjiang region of China.²² Companies slow to move will face high costs for noncompliance including time spent cooperating with authorities.

Reputational risks

Reputation, according to the World Economic Forum, accounts for more than 25% of companies' market value.²³ Market studies suggest that consumers are increasingly concerned about food companies' reputation (with a 28% increase in recent years consumers buying goods because of a company's ethical reputation) and strategically use their purchasing power to press companies on ethics and sustainability.²⁴ For instance, three quarters of respondents to a customer survey in 23 countries reported preferring 'ethical food' produced in socially and environmentally responsible ways.²⁵ Polling across 17 countries shows that more than half of the people intend to start buying more sustainably once the COVID-19 pandemic is over.²⁶

As consumers are getting more conscious, food companies and retailers are increasingly financially exposed to reputational risks because of high global brand visibility. Reputational damage can contribute to a loss of consumer demand, market access, public support and potential divestment. For example, forced labour allegations at Malaysian palm oil plantations led to a ban of all shipments by the US CBP since 2018, resulting in food companies suspending orders.²⁷

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Operational risks

Operational disruptions caused by human rights violations increase costs for business through, for example:

- · project delays or modifications;
- · costly security arrangements;
- · material damage to sites due to potential worker or community unrest;
- · lost productivity due to delays, stoppages, workplace protests or strikes; and
- staff time spent on conflict resolution, among other things.

For example, several food and beverage companies engaged in water disputes with communities in water-stressed regions in India which increased these companies' cost of operations.²⁸

Companies committed to ethics and sustainability can realize competitive gains. Those that prioritized worker and social wellbeing throughout the early stages of the COVID-19 pandemic outperformed those that did not.²⁹ Conversely, companies that do not place human rights considerations at the heart of business decisions can suffer negative consequences, including lower worker productivity, low production, higher turnover or higher absenteeism, loss of social license to operate. In 2020 a number of meat processing plants in the United States had to suspend operations due to poor safety measures, impairing firms' ability to meet production targets.³⁰

2.2 FINANCIAL IMPLICATIONS OF RISKS

Regulatory, legal, reputational and operational risks triggered by human rights violations may end up impacting stock performance and costing portfolio companies through:

- · Payment of fines, penalties and legal costs;
- Operational inefficiencies, disruptions, delays and resource diversion;
- Loss of consumers and/or markets:
- · Loss of talent and high turnover rates;
- · Loss of access to capital; and
- · Loss of goodwill.

The costs of dismissing or violating human rights may impair the ability of companies to provide investors with financial benefits. There are many examples of companies losing their social licence to operate because of disregard for the human rights impacts of their operations.³¹

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3. INVESTORS DRIVE HUMAN RIGHTS VIOLATIONS

Investors can cause or contribute to human rights violations in the food sector through their investments in public and private equity, corporate bonds, infrastructure, and real estate. The OECD Guidelines lay out how investors can use their leverage to address, prevent or mitigate human rights impacts.³² A lack of willingness to make human rights a central tenet in investment decisions and stewardship – and engage investee companies on human rights at company headquarters – can contribute to human rights violations on the ground, increasing costs for the business.

3.1 HUMAN RIGHTS ON THE GROUND

Companies – including supermarkets, food and beverage companies, and agribusinesses – source cocoa from Ghana, coffee from Brazil, seafood from Thailand, sugar from India and wine from South Africa. All are global players, and many are publicly traded.³³ The limited regulations across some countries can result in some companies building supply chains that access labour cheaply, grab land, violate community rights and drive down raw material prices in order to boost their own profits.

Poor working conditions and low wages

Food commodities are often sourced from countries where basic labour rights might not be guaranteed. From the examples we cite in this paper, precarious work, long hours, low wages, limited bargaining power and a lack of accessible grievance mechanisms are common conditions across supply chains. For instance, in the Thai seafood sector, scrutiny and formalization led to improvements, yet wages remain low, and informal work is prevalent; over 25% of migrant workers in fishing and 75% of workers in pre-processing and processing reported receiving less than the daily minimum wage multiplied by 30 days per month.³⁴

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A LACK OF WILLINGNESS TO MAKE HUMAN RIGHTS A CENTRAL TENET IN INVESTMENT DECISIONS AND STEWARDSHIP – AND ENGAGE INVESTEE COMPANIES ON HUMAN RIGHTS AT COMPANY HEADQUARTERS – CAN CONTRIBUTE TO HUMAN RIGHTS VIOLATIONS ON THE GROUND, INCREASING COSTS FOR THE BUSINESS.

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BOX 2: WORKING CONDITIONS FOR SUGAR WORKERS IN INDIA

Many sugar workers in India are locked into forced migration, poverty, and debt because they: 35

- · Are hired seasonally;
- · Work excessive hours;
- · Do not earn a living wage;
- · Live in camps in very poor conditions; and
- Are subject to gender-discriminatory practices, e.g., pregnant women are given only 10 days leave.



Forced labour

The International Labour Organization lists agriculture as susceptible to forced labour (it represents 11% of reported cases). Slave-like working conditions on farms are endemic in the Brazilian coffee sector; many are included on the country's 'Dirty List', an anti-slavery tool created in 2004, owing to practices such as deceptive recruitment, debt bondage, informal employment relations, low pay and long working hours. The superior of the su

The COVID-19 pandemic has increased workers' vulnerability to forced labour.³⁸ For example, in Thailand's seafood sector, an outbreak highlights the poor treatment of migrant workers, including lost income, furlough without financial support, overcrowded and unhygienic accommodation, a lack of protective gear, insufficient testing and discrimination.³⁹ The 2021 US Department of State's annual *Trafficking in Persons* report downgraded Thailand for its lack of adequate measures to address forced labour among migrant workers, especially in the seafood sector.⁴⁰

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Child labour

According to the US Department of Labour, there were 152 million child labourers globally in 2019. 41 Cocoa farms use large numbers of child labourers, many of whom are trafficked to work in Côte d'Ivoire and Ghana, 42 which account for over two thirds of global cocoa supply. 43 In 2020, the National Opinion Research Center at the University of Chicago assessed progress in the efforts of these two countries to reduce child labour. 44 Their research revealed that the proportion of children aged 5–17 years working on cocoa farms actually increased from 31% to 45% of children working on cocoa farms in these two countries over the past decade. 45 The world's biggest three chocolate companies account for almost 34% of the global market share. 46





BOX 3: GENDER INEQUALITY IN THE FOOD SECTOR

Rural women comprise nearly half of the agricultural labour force in developing countries.⁴⁷ They have a weak bargaining position because of gender-based discrimination and social norms. In some countries, cultural and social barriers can impact their representation in the workforce and prevent them from accessing resources and seeking employment or livelihood opportunities. Labour market discrimination can confine women to casual, temporary, and vulnerable employment. As outlined below, during COVID-19, women workers in places like Thailand, Brazil and South Africa were more susceptible to workplace discrimination, including wage gaps, social and physical insecurity and precarious working conditions.

Women workers in Thailand's seafood sector:48

- · Have precarious contracts;
- On average earn nearly one third less than men those in pre-processing are worst-affected (women are paid over 40% less than men);
- Piece-rate workers in particular work excessive hours to earn minimum wage, receiving wages dependant on the supply of raw materials, which was negatively impacted during COVID-19;
- Have high job insecurity during COVID-19 many were furloughed with no benefits and little access to government safety nets; and
- · Have limited maternity benefits and childcare options.

Women workers in the coffee sector of Minas Gerais state, Brazil:49

- Constitute 16% of the formal coffee labour force in Minas Gerais;
- 76% of women work as informal workers compared to 67% of men, earning 73% of what men working informally earn;
- · Are less likely to secure a formal contract than men; and
- Lack access to higher paying jobs, although many are better educated than men.

Women workers in South Africa's wine sector:50

- Are less likely to be permanent workers in comparison to men;
- · Are often paid less than the minimum wage;
- · Are exposed to toxic pesticides without being provided with protective clothing; and
- · Are often refused employment or maternity leave if pregnant, even though it is against the law.

During COVID-19, women bore the brunt of the crisis:

- Women faced increased childcare demands as children stayed home because of school closures, with limited caregiving options available.
- Women are more likely to be exposed to unsafe working conditions in comparison to men because more women are informal workers.
- More women in the food sector lost their jobs than men because of the low level of formal working agreements for women.



Poor safety standards

Many food companies have policies to reduce occupational health and safety incidents and prevent harassment, yet lack adequate basic facilities such as ventilation, toilets, and clean water.⁵¹ COVID-19 has exacerbated this problem across the global food chain: during the pandemic, food companies have been considered essential services that must continue production, even while workers lack adequate safety measures and face unprecedented health risks.⁵²

Migrant workers and women in southeast Asia were significantly impacted due to job insecurity, lower incomes and lack of governmental support to allow them to migrate and work safely. 53 Interviews with US poultry workers in 2020 revealed more than half had little if any access to benefits, would lose pay if they reported sick, and were rewarded for perfect attendance, giving the impression that their employers had little regard for their health and safety. 54

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MANY FOOD COMPANIES HAVE POLICIES TO REDUCE OCCUPATIONAL HEALTH AND SAFETY INCIDENTS, YET LACK ADEQUATE BASIC FACILITIES SUCH AS VENTILATION, TOILETS, AND CLEAN WATER.

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BOX 4: VIOLATION OF COMMUNITY RIGHTS TO LAND IS A THREAT TO STABLE RETURNS

Women, smallholder farmers and indigenous peoples depend on land for food, livelihoods, water and the expression of their identities and cultures. However, millions of people lack secure rights to their land. They are vulnerable to governments, companies and investors buying and leasing their land – without their consent – to cultivate agricultural commodities, capture carbon or for other investment purposes.

One percent of farms operate more than 70 percent of the world's farmland, though recent data show this to be an undercount.⁵⁵ Oxfam has documented land conflicts in the food sector, particularly those involving local communities and sugar mills in Cambodia and Brazil.⁵⁶

Insecure land rights present financial risks for companies. Interviews with almost 80 companies revealed that they lack systems and processes to assess and respond to tenure risk. 57 Conflict often ensues when companies lease or buy land without proper consent and/or remediation. The main cause of financial losses that result from tenure disputes is delay. Delays in project launches or operations can affect a company's revenue by reducing expected production levels and revenue at a time when costs are typically either steady or increasing. An assessment of 29 tenure disputes in Africa revealed that 13 had resulted in delays of over 500 days, while six extended beyond 1,000 days and in almost all cases, the projects were ultimately cancelled and disposed of at a large loss. 58

Conflicts with local communities can result in legal challenges tying companies up in court for months or years, prosecution in international courts for human rights abuses, direct actions including the physical disruption of operations and seizure of infrastructure, public censure and reputational damage. Research into over 50 land disputes of over 50 cases in southeast Asia between 2001 and 2017 revealed that 65% of cases had a financial impact on project backers; displacement of people was identified as one of the primary drivers of disputes.⁵⁹



3.2 HUMAN RIGHTS AT THE TOP

Food companies are often directly or indirectly linked to rights violations through their supply chains. Ensuring that these companies adopt and implement adequate human rights policies and practices is essential for investors to assess how companies manage risks and respect human rights in their operations and supply chains. Oxfam provides enough evidence that clearly suggests gaps in company policy and performance on human rights. Some companies might not even be aware of these abuses, even though many are a result of their business decisions.

BOX 5: THE MAIN SHORTCOMINGS OF SOCIAL AUDITS

Companies rely heavily on social audits to address human rights risks stemming from supply chains. However, social audits cannot be a substitute for HRDD. In their current form, social audits are ill-equipped to comprehensively identify and assess all risks stemming from violations. Among other issues, they:

- · Are a snapshot in time rather than a continual process;
- Are less pre-emptive in the identification of risks than HRDD;
- Are a checkbox exercise to ensure compliance, rather than trying to create change;60
- Do not include stakeholders when developing targeted mitigation and remediation solutions;⁶¹
- Aggregate data, providing little information about the impact of company business decisions on different groups of stakeholders, such as women; and
- Are ad hoc, targeting one facility, rather than assessing structural factors, such as purchasing practices.

Supermarkets

In 2018, Oxfam launched the 'Behind the Barcodes' campaign to assess supply chain policies and practices of the largest supermarkets in Europe and the United States. **Figure 2** compares human rights policies and practices of companies in their supply chains. As the figure depicts, supermarkets have shown some improvement from 2019 to 2020, but this remains insufficient. For instance, we see the greatest need for improvement in gender rights policies and disclosure. However, none of the supermarkets are yet systematically tracking and disclosing gender-disaggregated data along supply chains. Styet, some positive developments can set the stage for others to follow suit, including:

• Kroger's solid commitments on HRDD in May 2021, the first from a major US food retailer;66

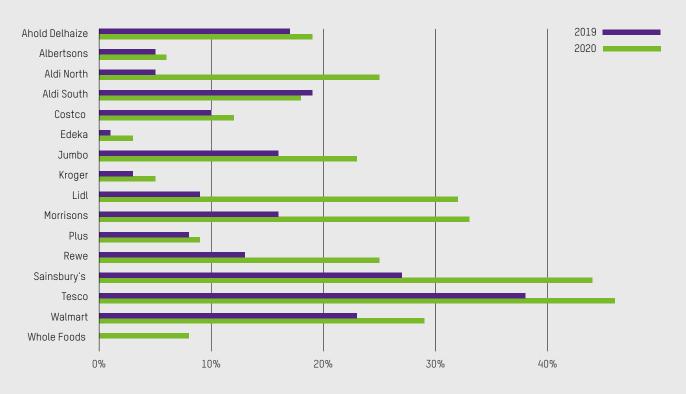
 Commitments by Dutch supermarkets Albert Heijn, Jumbo and Lidl Netherlands in July 2021 to support women workers and farmers in their supply chains. These three companies promised to undertake human rights impact assessments within two years and publish in-depth research into the situations of women in their supply chains, develop concrete action plans based on the assessments and address gender pay gaps in supply chains.⁶⁷ * * *

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FIGURE 2: BEHIND THE BARCODES SCORES, 2019-20

Assessment of supermarket human rights policies and practices in supply chains which includes impact to workers, small-scale farmers and women



Source: Behind the Barcodes Supermarket Scorecard 2020 Data and Behind the Barcodes Supermarket Scorecard 2019 Data

Food and beverage companies

Food and beverage companies were the focus of Oxfam's 'Behind the Brands' campaign in 2013–16. Many of the companies committed to implementing better social, environmental and human rights policies and sourcing practices. Companies such as the Coca Cola Company, Nestle, PepsiCo, and Unilever are implementing HRDD policies to mitigate human rights risks and address impacts in their supply chains. ⁶⁸ Yet more is needed to root out systemic human rights risks from supply chains. In 2020, Oxfam reassessed the Behind the Brands companies, and discovered that: ⁶⁹

- Action at the global level does not, in many cases, transmit to progress in countries of operation and through supply chains;
- Although companies conduct gender impact assessments, their quality of the assessments varied; but some like those conducted by Mars are more robust than others.
- Key blockages must still be addressed including providing the right incentives, disclosing suppliers, and getting suppliers to take up the agenda – to create change that would be beneficial for all stakeholders and enhance the company's long-term value; and
- There are positive examples and innovations in key sourcing countries, such as locally owned solutions that involve engagement between multinational and national companies, civil society, labour unions and governments.

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MORE IS NEEDED TO ROOT OUT SYSTEMIC HUMAN RIGHTS RISKS FROM SUPPLY CHAINS.

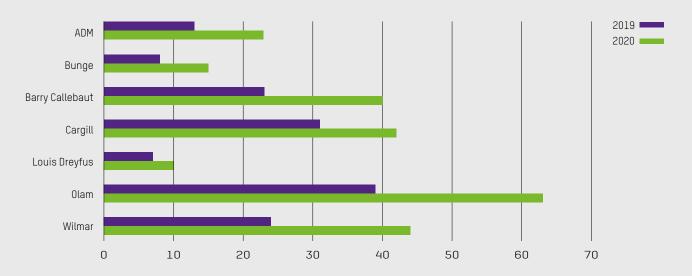


Agribusinesses

The world's largest agribusinesses serve as a key link between food and beverage companies and supermarkets at one end, and the people producing agricultural goods at the other. Oxfam first assessed agribusinesses' policies in 2019.70 Some slight improvements were noted in a second assessment in 2020.71 Figure 3 reveals minor efforts of the agribusinesses to improve disclosure, policies and practices on human rights, but most of their scores remain low. Regrettably, without concerted uptake of human rights policies and practices among agribusinesses, efforts to mitigate human rights risks in the food system will be futile.

FIGURE 3: AGRIBUSINESS SCORES 2019 AND 2020

Assessment of agribusinesses management of human rights risks and impacts across supply chains



Source: Oxfam's Agribusiness Scorecard 2020 and Agribusiness Scorecard 2019



4. INVESTOR ACTION FOR CHANGE

Investors can play an important role in creating a resilient and stable food system by initiating change from within and among the companies in their portfolios. Some investors are acting on the financial risks posed by disregarding human rights by either pushing companies to respect human rights or regulators to enforce standards. Yet these efforts are not nearly enough to ensure system-level change. The recommendations outlined below will ensure investors contribute to a post COVID-19 recovery and help reshape how human rights are perceived and addressed.

ALIGNING

How can an investor ensure that their policies and practices articulate human rights standards?

- Align human rights policies and commitments with the UNGPs and OECD Guidelines and factor them into investment decisions and proxy voting.
- Adopt a comprehensive and transparent HRDD process across their investment portfolios, with special emphasis on the application of a gendered approach.
- Make human rights performance a central tenet in the selection, engagement, oversight and review of fund managers and/or business partners.
- Use human rights as a key performance indicator for the compensation packages of directors, partners and fund managers.

IMPLEMENTING

How can investors ensure that human rights are a crosscutting issue across companies in their portfolios?

- Set human rights as a priority for board-level oversight, embedded in corporate strategy.
- Tie human rights as a performance indicator for senior management compensation at companies.
- Assess human rights performance across entire supply chains, with regular HRDD conducted and publicly disclosed (gender disaggregated where possible) by investee companies.
- Prioritize investee companies for which the risk of adverse impacts are significant for further due diligence and/or engagement.

RESTRUCTURING

How can investors contribute to restructuring the way the private sector assesses human rights?

- Encourage companies to move away from short termism and focus on long-term value creation.
- Contribute to shaping the regulatory agenda and encouraging the adoption of mHRDD.
- Work with civil society stakeholders to encourage/design a comprehensive and community-based human rights framework, fully aligned with the UNGPs and the OECD Guidelines.⁷³

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This paper was written by Marta Piazza. Oxfam acknowledges the assistance of Marta in its production. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.

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The information in this publication is correct at the time of agina to press.

Published by Oxfam GB for Oxfam International under ISBN 978-1-78748-809-0 in September 2021. DOI: 10.21201/2021.8090

Oxfam GB, Oxfam House, John Smith Drive, Cowley, Oxford, OX4 2JY, UK.

Photos

Cover: A worker handles coffee beans. Photo: Tatiana Cardeal/Oxfam Brasil

Page 8: A basket of fish collected by workers in Thailand. Photo: Suthep Kritsanavarin/Oxfam

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