

## **Security of People and Assets**

### Discussion paper

This paper was prepared for the U.N. Special Representative to the Secretary-General on business and human rights, Professor John Ruggie. It does not necessarily reflect the views of the Special Representative, but has been written to invite input. Most helpful would be responses to the questions posed in the last section and additional best practices or initiatives not already mentioned, but any sort of feedback would be welcome. This paper and others will inform the Special Representative's ongoing work, and may also serve as a resource for business and human rights practitioners and observers.

Please send comments to [humanrightsandbusiness@ohchr.org](mailto:humanrightsandbusiness@ohchr.org) by 10 October 2006.

Additional papers and materials related to the U.N. Special Representative can be found at the Business and Human Rights Resource Centre: [www.business-humanrights.org](http://www.business-humanrights.org).

*Everyone has the right to life, liberty, and security of person.*

– Universal Declaration of Human Rights, Article 3

### **The Issue**

1. For companies with capital-intensive activities or a major concentration of staff in areas of weak governance or conflict, physical security of staff, assets and the surrounding community can be the most visible and challenging aspect of the relationship between business and human rights. Business activity can be of strategic importance to governments and insurgent groups and therefore become focal points of conflict, which companies, in turn, can exacerbate, be victims of, and help alleviate.
2. Impingements of the right to life, liberty, and security of person comprise the most egregious human rights complaints against multinational companies, and the majority of complaints overall against the extractive industries.
3. Many of these complaints refer to the conduct of government security personnel allegedly using inappropriate force in the name of protecting company staff or facilities, in violation of international standards such as the UN Code of Conduct for Law Enforcement Officials (1979) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).
4. The increasing employment by governments and companies of private security personnel and the lack of regulation of that industry are also of growing concern.<sup>1</sup>
5. This issue presents a major challenge for companies in terms of the degree of leverage that they have over other parties involved (what some might call a “spheres of influence” issue). Companies have control over their own staff, and can decide, for example, whether or not to arm their security guards and take disciplinary action for violation of their codes of conduct. Companies can enforce

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contractual standards in their relationships with private security companies, but may have less control over the implementation of those standards. With governments, companies can make their expectations clear, but they have little to no control over the deployment and conduct of state forces at company sites – and none over troops stationed miles away.

6. A number of experts now assert that constructing a secure perimeter to keep distance between company facilities and local communities is ineffective, dangerous and expensive, as well as detrimental to relations with local communities and, therefore, to long-run operations. International Alert writes, “While retreat is a natural response to threat, it exacerbates local perceptions of company employees as alien, privileged and unsympathetic to the community or country’s needs and identity. This alienation increases the chances that company staff will be perceived as a source of grievance and eventually be attacked.”<sup>2</sup> Instead, the local community must be given – and encouraged to actively accept – a shared responsibility for communal order and respect for mutually-agreed grievance mechanisms. Until residents see the company as a neighbour rather than an intruder, they will have little interest in supporting its protection.
7. Security cannot be treated in isolation, but rather is inextricably linked to community relations. Indeed, security problems are often manifestations of underlying longstanding issues, whether in the company’s control (e.g., grievances over compensation) or not (e.g., local residents’ belief that they receive an inadequate share of revenues from an extractive project or insufficient local services). Thus, strong links between security personnel and community relations staff are critical.
8. Security programs should emphasize conflict prevention rather than conflict management, and have mechanisms designed to resolve issues before they get out of control while monitoring signs of potential violence, such as disproportionate reactions to events or increasingly hostile statements that community leaders don’t feel respected. It is very difficult to repair community relations once they have gone sour.
9. Even where positive community relations are achieved, however, some degree of interaction with security personnel is often necessary and sometimes required by law.

### **Current activity, initiatives, tools, and good practice**

10. The **Voluntary Principles on Security and Human Rights** (VPs) were created in 2000 by a group of governments, human rights NGOs, and extractive companies. The VPs provide practical guidance to companies in the extractive sector on risk assessment and interaction with public and private security forces. The guidance is general, since implementation will vary greatly depending on the nature of the business and local conditions.<sup>3</sup>

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11. Admission to the VPs plenary implies a certain level of awareness and commitment and provides a forum to share experiences and collaborate with others on implementation. The VPs are currently attempting to define **criteria** for admission and expulsion to the VPs plenary in order to maintain credibility for the VPs as an institution.
12. The VPs have in some cases served as a helpful **convening mechanism**, resulting in improved relationships between the military and local communities. Indeed, the tri-sectoral, voluntary structure of the VPs has encouraged partnerships and progress that might not have occurred within the framework of negotiating international treaties – certainly not within the same timeframe.
13. Anglo American plc with the assistance of Control Risks Group has developed a detailed **implementation guide** for the VPs.<sup>4</sup> Barrick Gold and BP have incorporated the VPs into **contractual agreements** with host government agencies (Barrick for the Porgera mine in Papua New Guinea, BP for the Tangguh and the Baku-Tblisi-Ceyhan projects), making them legal requirements for both parties.
14. The Collaborative for Development Action's (CDA) Issue Paper "Defining and Measuring Successful Relations with Communities: Developing Indicators of Impact", suggests that companies **collaborate with local residents** to evaluate security programs. A company might be inclined to track the number of security personnel trained, whereas community consultation would reveal that the number of people or food vendors on the streets at night is a better indicator of safety.<sup>5</sup>
15. A few companies have commissioned **external audits** of their security arrangements and made those audits publicly available, for example for Freeport-McMoRan Copper & Gold's Grasberg mine and BP's Tangguh project.<sup>6</sup>
16. In some countries, military personnel have undergone **training** on human rights and appropriate use of force, sometimes supported by companies and carried out by NGOs such as Equity International.<sup>7</sup>

### **Issues for further discussion**

17. The recent decision by the VPs plenary to admit host as well as home governments of participating companies and NGOs is a welcome move, as is the elimination of the requirement that a company or NGO could only participate if its home government joined. Which governments should be the next to join, and how can they be incentivized to do so? Do governments have any concerns about the VPs interfering with matters of national security?
18. Similarly, the current company membership of the VPs is sixteen companies, all Western multinationals. How can state-owned enterprises and smaller and/or non-Western companies be brought in?

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19. What is of greater concern is not whether an organization officially “belongs” to the VPs, but whether and how thoroughly the VPs are applied on the ground. Do any communities, projects, or regions look different because of the VPs – whether by following the VPs’ letter or spirit? Are there any examples of innovative security arrangements?
20. With regard to the VPs, **NGOs** can challenge and help improve companies’ and governments’ implementation. More broadly, they can represent communities that might not otherwise have a voice, investigate and draw attention to issues that it might be inappropriate for a company to raise, or build awareness and capacity. Are there other roles for NGOs in matters of security?
21. The VPs have been incorporated into a few legally-binding contracts, and the International Finance Corporation’s new performance standards incorporate some elements of the VPs. However, some argue that there is not enough pressure on participating companies to demonstrate that they are implementing the VPs, and that other companies should be required to adopt them as well. Should the VPs be more rigorously and/or widely **mandated**? If so, how?
22. How can companies open their security arrangements to **external scrutiny** without making those arrangements vulnerable or compromising their relationships with state security forces?
23. The VPs do not explicitly address the matter of **company payments** to state security forces, which are sometimes required by law. As recent NGO reports have pointed out, such arrangements can reinforce corrupt behaviour by public security personnel and entrap companies into dangerous patterns of extortion. BP’s Tangguh project has mandated in their Field Guidelines with the Indonesian police that their payments be recorded and transparent. How can others be encouraged to follow, given the considerable legal and political challenges involved?<sup>8</sup>

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<sup>1</sup> See, for example, <http://www.fco.gov.uk/Files/kfile/mercenaries.0.pdf>;  
<http://www.chathamhouse.org.uk/pdf/research/il/ILP160305.pdf>; C. Holmqvist, “Private Security Companies: The Case for Regulation”, SIPRI Policy Paper No. 9, January 2005;  
<http://www.privatemilitary.org/academic.html>.

<sup>2</sup> International Alert, “Conflict-Sensitive Business Practice: Guidance for Extractive Industries”, March 2005.

<sup>3</sup> The U.S. and U.K. were the founding governments; Norway and the Netherlands have since joined. See <http://www.voluntaryprinciples.org> for more information including current membership.

<sup>4</sup> Anglo American plc with Control Risks Group, “Implementation Guidelines for the Voluntary Principles on Security and Human Rights.”

<sup>5</sup> See [http://www.cdainc.com/publications/cep\\_issue\\_papers.php](http://www.cdainc.com/publications/cep_issue_papers.php).

<sup>6</sup> See [http://www.icca-corporateaccountability.org/04\\_reports.php#3](http://www.icca-corporateaccountability.org/04_reports.php#3) and [www.bp.com/tangguh](http://www.bp.com/tangguh), “Integrated Social Programs”, “Tangguh Integrated Community Based Security”, “Human Rights and Security Monitoring Assessment”.

<sup>7</sup> See <http://www.equityinternational.org/>.

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<sup>8</sup> Human Rights Watch, “Too High a Price: The Human Rights Cost of the Indonesian Military’s Economic Activities,” June 2006. For the BP Tangguh Field Guidelines, see <http://www.voluntaryprinciples.org/news/index.php>.

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