

Working Group on Business and Human Rights – Call for Inputs

The Voluntary Principles Initiative Secretariat submits the following in response to the call from the UN Working Group on Business and Human Rights for inputs on *Extractive sector, just transition and human rights*.¹ This submission provides some considerations to questions 9 and 19 and additionally provides some context.

The Voluntary Principles on Security and Human Rights

In December 2000, the United States and United Kingdom governments, along with a group of extractive companies and non-governmental organizations, agreed on a set of principles, known as the Voluntary Principles on Security and Human Rights (“Voluntary Principles”), to guide companies on security and human rights best practices. The Voluntary Principles provide an outline of actions companies should take to assess risks and implement public and private security measures in a manner that respects human rights. Along with this standard, there is also a Voluntary Principles Initiative (VPI), comprised of 74 members and observers representing governments, corporations, NGOs and international organizations. The Initiative seeks to promote universal respect for human rights in the provision of security for business activities in a manner guided by the Voluntary Principles; strengthen implementation and accountability; improve human rights collaboration between government, companies and NGOs; share expertise and lessons learned; develop tools and guidance; and increase the number of Initiative participants. The text of the Voluntary Principles on Security and Human Rights as well as more information on the VPI, implementation of the standard and a library of resources can be found at our website, www.voluntaryprinciples.org

The VPs Risk Assessment and Due Diligence Practices

Risk assessment is a key component of the Voluntary Principles regardless of where a company is operating. The Voluntary Principles state that effective risk assessments should consider: an identification of security risks; the potential for violence; human rights records (including the available human rights records of public security forces, paramilitaries, local and national law enforcement, as well as the reputation of private security); conflict analysis with identification of the root causes of conflicts and level of adherence to human rights standards; and the risks associated with equipment transfers to public or private security providers.²

The Voluntary Principles are consistent with the UN Guiding Principles requirement for companies to perform risks assessment as part of their due diligence, that is, paragraphs 17 and 18. The Voluntary

¹ <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-extractive-sector-just-transition-and-human-rights>

² The Voluntary Principles for Security and Human Rights available at: <http://www.voluntaryprinciples.org/wp-content/uploads/2019/12/TheVoluntaryPrinciples.pdf>

Principles requires companies to address their human rights risks through effective policies, procedures and as well as actions such as training and vetting of security providers.

As a best practice, companies should undertake and update their risk assessment at regular intervals throughout the project, but also when there are major changes in circumstances.

[Global Security and Human Rights Standard for Extractives](#)

The Voluntary Principles has become the *de facto* standard for protecting human rights in security operations in the extractive sector. It is expressly endorsed or supported in sector-specific performance standards, or supply chain standards, including ICMC's Mining Principles, the World Gold Council Responsible Gold Mining Principles (RGMPs), the Responsible Jewellery Council Principles and Code of Practices, Copper Mark, the Initiative for Responsible Mining Assurance (IRMA), and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. A large number of extractive sector companies, member and non-member of the Voluntary Principles Initiative use the Voluntary Principles to help them improve their human rights performance as it relates to Security.

[Voluntary Principles in Energy Transition Operations](#)

Many have feared that human rights risks related to the energy transition may increase. These apply to risks not just to labour conditions but also risks of human rights violations relating to the provision of security, particularly in remote, complex environments, or zones of weak governance. There are additionally risks related to the increasing presence of private military companies and their potential usage within any operations.

We note that the Voluntary Principles have proven useful for non-extractive sector operators in high-risk settings with significant human rights risks associated with security, including operations associated with large land acquisitions or in areas with poor governance or significant risks of conflict. The VPI is aware that the Voluntary Principles have been implemented in the following sectors beyond extractives:

- Large agricultural plantations (e.g. palm oil) and cattle ranches
- Manufacturing in high-risk, high-conflict environments
- Conservation / Game reserves
- Off-shore drilling operations
- Renewables (solar, wind and hydropower)
- Infrastructure: ports, railways, and telecom infrastructure such as cell phone towers
- Hotels

Because the VPs are risk-based, their implementation can be tailored to the scope, severity and type of risk. Therefore, there is significant potential to implement the VPSHR in a variety of upstream contexts, including for example, forestry, fisheries, agriculture and a variety of renewables operations.

The VPI is considering whether any further tools and guidance is required to help non-extractive members implement the VPSHR and whether any other adaptations are advisable.

In-Country Working Groups

The Voluntary Principles Initiative supports a number of In-country Working Groups (ICWGs) as an important means of engaging communities impacted by security and human rights risks, including in Ghana, Nigeria, Brazil, alongside longstanding groups in Colombia and Peru. VPI partners additionally support ICWGs in Mozambique and the Democratic Republic of the Congo. ICWGs are intended to facilitate effective country-level implementation of the Voluntary Principles by improving in-country stakeholder coordination and engagement between host governments, corporations, and civil society organizations, leading to constructive multi-stakeholder dialogue on the ground. A key objective is building on-the-ground capacity to identify and act on local in-country challenges related to implementation of the Voluntary Principles and working to identify joint solutions to those challenges.

VPI ICWGs strive to achieve the following objectives for their members: i) increased capacity to accurately understand, predict, prevent and address human rights risks and existing impacts related to the provision of security; ii) increased capacity to plan and implement security operations that respect the safety and human rights of community members; and iii) increased knowledge of how to effectively operationalize the VPSHR in their local context, including increased responsiveness to community concerns.

Recommendations:

1. Any definition of just transition should be inclusive of communities impacted by security and human rights risks (i.e. should be inclusive of all human rights, and not confined to a focus on labour rights);³
2. Companies, governments and civil society should engage in multistakeholder dialogue on the ground to foster constructive dialogue and identify collective solutions to problems;
3. Upstream operators in complex or high-risk environments should consider implementing the Voluntary Principles to manage their security and human rights risks;
4. The Voluntary Principles should be seen as a good practice in the implementation of human rights due diligence in conformity to the UN Guiding Principles (vis-à-vis security practices); Relatedly, the VPI should be seen as the right forum to debate and elaborate guidance on security and human rights;
5. Support a systemic and transparent approach in laying the groundwork for responsible green investment through an inclusive multi stakeholder approach that goes beyond the trypic 'civil society-governments-private companies' and includes the wider set of insurers, investors, affected stakeholders, etc;

³ Note the Intergovernmental Panel on Climate Change definition of a Just Transition: *A set of principles, processes and practices that aim to ensure that no people, workers, places, sectors, countries or regions are left behind in the transition from a high-carbon to a low carbon economy.*

6. Shift from a "do no harm" to a "do more good" approach while investing in the green transition, making sure that no one is left behind and local communities benefit from this transition; and
7. Focus on promoting and enabling access to remedy for communities impacted by security and human rights challenges to raise substantiated concerns.

Further Good Practices to Highlight

Implementing the Voluntary Principles can be particularly challenging for companies operating in areas where there is conflict or weak governance. The Resources Page of the VPI website provides members and non-members with resources to support implementation of the Voluntary Principles, including guidance that specifically addresses some of the challenges and particular security and human rights risks common to fragile, conflict-affected, and post-conflict settings, as well as providing assistance with conflict analysis.⁴ Below are some examples of best practices and lessons learned for companies operating in such environments taken from these resources.

Exercise Elevated Caution when Engaging Public Security Providers

Companies should exercise caution when engaging public security providers as the use of company assets or transfer of equipment to public security providers may make the company facilities a target for violence. Where the state is a conflict actor, companies should avoid having public security involved in operations if private security forces can legally and practically respond to company needs. Where this is not possible, the company should carefully monitor the activities of the public security forces assigned to the protection of the company's staff, assets and operations to ensure they do not take part in operations related to conflict/armed violence.

Address Human Rights in Security Agreements

It is a longstanding best practice to include contractually binding human rights clauses in contracts with private security contractors that set out clear human rights expectations. The VPI has also adopted model clauses for use in security agreements such as memorandums of understanding between Government Security Forces and companies in the extractive and energy sectors. These clauses address elements such as the training of government security force personnel on security and human rights; investigation of security incidents; and use and control of weapons and equipment. The model clauses

⁴ See the Resources page of the VPI website for a searchable library of relevant resources at <https://www.voluntaryprinciples.org/resources/>. Important tools and guidance for Voluntary Principles implementation include the following: Implementation Guidance Tool (ICMM, ICRC, IFC, IPIECA) <https://www.voluntaryprinciples.org/resource/voluntary-principles-on-security-and-human-rights-implementation-guidance-tool/>, 10 Steps to Maintain Security in Compliance with Human Rights <https://www.voluntaryprinciples.org/resource/10-steps-to-maintain-security-in-compliance-with-human-rights/>; and VPI Conflict Analysis Tool for Companies <https://www.voluntaryprinciples.org/resource/voluntary-principles-initiative-conflict-analysis-tool-for-companies/>. Further tools available on the resources page address complex environments, including Addressing Security and Human Rights Challenges in Complex Environments (DCAF/ICRC); Use of Security Forces: Assessing and Managing Risks and Impacts (IFC).

also require public security providers to agree that personnel who have faced credible allegations of involvement in violent crimes or human rights abuses, will not be assigned duties in and around the project area.⁵

Vetting of Security Forces

Vetting of security providers, particularly for past human rights abuses, is an important part of conducting a human rights risk assessment. However, it may be very sensitive and difficult to conduct such vetting in fragile states and in post-conflict contexts. The lack of relevant information, such as personnel records, may make it impossible to conduct background checks as recommended in various Voluntary Principles guidance documents. An inability to properly vet security forces may produce a heightened risk of human rights abuses. Companies can mitigate this risk by providing security providers with training.

Provide Training to Security Providers

Training to security providers should include the following: human rights, international humanitarian law, sexual and gender-based violence, differentiated treatment of children, vulnerable groups and human rights defenders, rules of engagement for the use of force, conflict management, crowd control and public order.

Modify Approaches to Community Outreach

It is important to understand the local context to determine the best means of public outreach, particularly in fragile and conflict-affected areas. Vulnerable groups in a local community may require different and varied outreach strategies. Consideration also needs to be taken in relation to engaging with ethnic or minority groups, especially those that are not officially or sufficiently recognized or represented. In-country Working Groups, where they exist, are an important means of working constructively with organizations well-placed to engage and support the needs of communities.

Voluntary Principles Secretariat, May 2023

⁵ Voluntary Principles Initiative, "Model Clauses for Agreements Between Government Security Forces and Companies" available at: https://www.voluntaryprinciples.org/wp-content/uploads/2021/11/Model-Clauses_Government-Security-Forces-and-Companies_English.pdf