

HUMAN RIGHTS PERSPECTIVES OF THE VOLUNTARY PRINCIPLES ON SECURITY AND HUMAN RIGHTS.

Being a presentation at 2019 AGC of NBA at the
session on “Examining Security and Human
Rights Issues in Nigeria’s Extractive Industry”
by Tony Ojukwu Esq, ES NHRC.

OUTLINE OF PRESENTATION

- The presentation will introduce voluntary principles and distinguish it from the UN Guiding Principles. It will then briefly refer to the predominant human rights violations in Extractive Industry and mention the categories and Pillars of the voluntary principles before examining the human rights perspectives following the key tenets of the VP. Presentation will then highlight the Dual impact of business on human rights and the NAP on BHR before conclusion.

1. INTRODUCTION

- Voluntary Principles on Security and Human Rights is an international multi-stakeholder initiative which articulates a set of principles developed to guide extractive companies (Oil, gas and mining companies) in ensuring the safety and security of their operations, personnel and facilities in a manner that promotes respect for human rights.
- The Voluntary Principles gives guidelines on what companies can do to ensure that the balance between security and human rights is struck. It prescribes steps that companies can take in collaboration with other stakeholders to avoid security-related human rights infringements in their operations.
- Security and human rights is therefore a specie of the broader business and human rights challenges that confront every country, and the Voluntary Principles is a viable tool for addressing them. The UN Guiding Principles on Business and Human Rights deals with the larger impact of businesses generally on human rights but the VP is narrower relating only to security and human rights in the extractive industry.

2. Predominant Human Rights Violations in the Extractive Industry

- Actions attributable to businesses which have occasioned human rights infringements abound namely: deaths, diseases, destruction of the environment, unsafe working conditions, child labor, tax evasion, forced evictions, destruction of livelihoods, excessive use of force by security personnel which at times leads to deaths (public and private). These actions affect the right to life, right to dignity, torture, inhuman and degrading treatment, right to clean and safe water, right to a healthy environment, right to education, the right to development, right to peace and security etc.

3. Categories and Pillars of Voluntary Principles

Three Categories-

- risk assessment,
- interactions with public security and
- Interactions with private security.

Three pillars –

- governments,
- extractive companies and
- non-governmental organizations.

4. Human rights perspectives of the key tenets of the Voluntary Principles

- a) **Identification of security risks and the possibility of violence and development of strategies to address them;**
- A proper risk assessment as advocated by the VPs can enable companies to know the patterns and root causes of conflicts. Instead of being reactive, it is better for all stakeholders for a proactive approach towards conflict prevention. Risk assessments (as advocated by the VPs) and regular interactions by companies (also advocated by the VPs) with those likely to be impacted by their security arrangements are likely to address issues that may escalate into human rights violations, before they occur.

b) Inspection of available human rights records of public and private security forces

- As part of the security risk analysis, the VP requires examination of human rights records of security personnel to be hired by extractive industries. This will help to know whether they have a history of human rights violation. This can then instruct the hire of the security personnel

c) Wide, regular and structured consultation with stakeholders on security and human rights issues and impact of security arrangements

- Regular consultations(as advocated by the VPs) with those impacted by security arrangements of extractive companies (which will include host community members) will ultimately build trust, enhance understanding and build peace, which will ultimately help reduce insecurity and human rights violations.

d) Conflict analysis and development of approaches for managing relationships between stakeholders

- The VPs envisage a collaborative approach by multiple stakeholders to issues of security and human rights. Where stakeholders are able to build trust, conduct comprehensive risks assessment and have regular consultations, and confidentially share information and address root causes of conflict, they will be in better position to collectively address security issues (whether oil theft, abductions, illegal oil bunkering, vandalization, community unrest as result of dissatisfaction with adverse impact of oil extraction) in the extractive sector, in a way that will respect human rights.

e) Proper management of transfer of equipment to public and private security forces that may cause human right abuses

- The VPs is the only international guideline which gives comprehensive guidelines to extractive companies on the steps to implement to ensure human rights is respected in their security arrangements. The voluntary principles requires that contractual agreements be entered into and such should provides for the usage of equipment to avoid violation of human rights

f) Communication of companies' policies on ethical conduct and human rights to security providers

- If in accordance with the VPs, companies ensure that security personnel deployed for their operations are trained; if they communicate their policies to them; ensure they do proper risks assessments, etc., there is a higher likelihood that the security personnel will operate within the bounds of human rights tenets thereby avoiding human rights violations. This will promote a positive change in the mindset of private and public security personnel thereby making them more professional, disciplined, boosting their public image and enabling them comply with international law enforcement principles and human rights standards.

Communication of companies' policies etc CONTD

- The VPs will also help companies promote respect for human rights line with the tenets of the United Nations Guiding principles on Business and Human Rights. It helps operationalize the philosophy of the United Nations Guiding Principles on Business and Human Rights in extractive sector's security arrangements.
- The VP will further help the Nigerian government to fulfill and protect human rights in the extractive sector in line with its obligation as the human rights duty bearer in domestic and international laws, treaties and instruments.

g) Guidelines on deployment and conduct of security forces etc.

(e.g appropriateness, competence, proportionality, avoidance of implicated security personnel, guidelines on the use of force);

- If the tenets of the Voluntary Principles on Security and Human Rights are implemented diligently and comprehensively it will significantly curb the spate of human rights violations traceable to security personnel of extractive companies. The incident in 2014 in Gboko, Benue State, where soldiers deployed by Dangote Cement killed seven and maimed another seven unarmed members of Tse-kucha and Yandev communities, simply because someone defecated near its plant

Guidelines on deployment and conduct of security forces contd.

- Security personnel who had acquired trainings canvassed by the VPs are enabled to provide their service in a professional and human rights compliant manner. This will contribute to viewing the security forces in a more positive light, as one which conducts its operations in a professional, efficient and human rights compliant manner.
- The VPs through its comprehensive guidance is a also viable solution to plugging the gap in governance on security and human rights in all extractive companies and Nigeria also can benefit from the application of the VPs in the extractive industry. It will greatly contribute to improving governance of the extractive sector from a human rights perspective.

i) Response to human rights infringements.

- The VPs give practical guidance on how extractive companies can respect, avoid or address human right violations and abuse thereby preventing further violations and reducing conflicts; The VP requires them to report, document, investigate and redress any human rights violation

5. Dual impact of business on human rights

- There have been positive examples where businesses have promoted the right to education, the right to development, the right to health, right to dignity through different actions such as the building of schools, provision of scholarships, digging of boreholes, hospitals, etc.
- Negative examples also abound all over the world, including in Nigeria of actions attributable to businesses which have occasioned human rights infringements including deaths, diseases, destruction of the environment, unsafe working conditions, child labor, tax evasion, forced evictions, destruction of livelihoods, excessive use of force by security personnel which at times leads to deaths (public and private) deployed in the extractive industry.

6. National Action Plan on Business and Human Rights

- The NHRC as a critical stakeholder who recognizes the potential multifaceted benefits derivable from the implementation of the VPs has included it in its NAP on business and human rights. The NAP also contains other mechanisms to ensure protection and respect for human rights by businesses, which really is in the interest of all stakeholders. We look forward to working together with businesses, public and private security, government entities and other stakeholders to attain the wholesale application of the VPs and other mechanisms contained in the NAP. We are still receiving input in the NAP which we hope to launch as soon as possible, therefore your inputs are welcome. You can send contributions for the NAP on business and Human Rights to nhrcanigeria@yahoo.com , Attention: DD(PSD) Please address all mails to Executive Secretary, National Human Rights Commission, No 19 Aguiyi Ironsi Street, Maitama, Abuja.

National Action Plan on Business and Human Rights contd.

- For us at the NHRC, it aligns with our function of promoting and protecting human rights in Nigeria. The risk assessment and regular consultation component of the VPs are proactive ways of preventing human rights violations, and if religiously implemented, it would prevent human rights infringements from occurring. We have several petitions flooding our offices on a daily basis, and any mechanism or initiative that can prevent or radically reduce them helps us tremendously and will reduce the petitions we could receive. This would allow us focus our energies on others.

7. Conclusion

- I therefore urge us to explore the possibility of Nigeria's membership of the initiative. It is unfortunate that Ghana joined the initiative before us (in 2014). As the Giant of Africa, we should always take the lead and blaze the trail in initiatives ensuring respect for human rights by all stakeholders in Nigeria, including by businesses, and in every aspect (security arrangements, environment, etc). Membership would help us contribute to shaping the governance of the initiative at the global level, share experiences with member countries, while also boosting implementation at the national level across board in the extractive sector in Nigeria. Membership of Extractive Industries Transparency Initiative (EITI) and the Open Government Partnership (OGPs) has undoubtedly had a positive impact on promotion and implementation of those initiatives in Nigeria.

Conclusion contd.

Thanks for listening

Tony Ojukwu Esq

Executive Secretary

NHRC.

tonyjojok@yahoo.co.uk