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Security and human rights: Aligning key standards with the UN Guiding Principles

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The questions that I will try to answer here today are how the Voluntary Principles on Security and Human Rights (VPs) relate to the GPs, and do they actually contribute to respect for human rights?

Let me start with the second question. The VPs have a number of strong and weak points that deserve to be more widely understood and can be illustrated with a comparison with the GPs.

An obvious difference is that, contrary to the GPs, the VPs are principles with a process. It is a Multi-Stakeholder Initiative, with membership, rules, reporting requirements, etc. And a rather exclusive one, with 22 very large extractive companies; all Government participants belong to the richest countries on earth except for Colombia; and all ten NGO participants are either based in the US and or the EU.

Comparing the GPs and the VPs, four observations

Firstly, The GPs limit responsibility of business to respecting HR. The VPs says that business can play a role in the promotion and protection of HR. **Respecting** human rights requires companies not to hinder others to exercise their rights. **Protecting** human rights requires action to prevent that rights are hindered by any third party. Respecting is a passive role, protecting an active one. Promotion and protection are especially important in environments that are violent and where HR violations occur. There it will simply be impossible to respect without promoting and protecting rights of others. Many companies will agree that they have no choice there.

To add flesh to this general principle, the VPs require companies to actively engage with governments. For instance, "Companies should record and report any credible allegations of human rights abuses by public security". And "Companies should urge investigation and that action be taken to prevent any recurrence." And "Companies should actively monitor the status of investigations and press for their proper resolution." Strangely, the UN Interpretative Guide for the GPs qualifies promotion as 'philanthropy'. It is not. The VPs understands this. To promote protection is a legitimate and often necessary role for business. In challenging environments, it can be a prerequisite for ensuring respect for human rights. In this sense the VPs are complementing the GPs. Another question is, of course, how much practical meaning this role has for VPs participants, and what the effects are.

Secondly, GPs lay great emphasis on the right to remedy, while the VPs do not even mention this right. **Thirdly**, the GPs details state duties while the VPs focus is on Companies and State duties come in implicitly. And **finally**, the GPs call for accountability, while the VPs have a weak accountability process. Clearly, the GPs are complementary to the VPs in these important matters. Not all Company members of the VPs have yet endorsed the GPs. We don't have to wait for them to already integrate key elements of the GPs in VPs practices. The way forward from an NGO perspective is that

- GP's State duties become integrated in the definition of responsibilities of Governments participants,
- effective remedy provision becomes a performance criteria for both State and Company participants, and
- the VPs develop a credible assurance mechanism.

The strategic plan that has been crafted under the current Swiss presidency makes this possible.

Before going into what the VPs do for human rights, I want to say something about its character as a multi-stakeholder initiative. Three important human rights organizations have left the VPs in 2013 and the NGOs that have come on board lately are specializing in supporting Companies to implement the VPs rather than in human rights advocacy. This is an important role for NGOs, but if that's all the NGO pillar does, the VPs process will lose its credible as a multi-stakeholder initiative.

My conclusion is that we cannot separate the VPs from the GPs and that integrating them is crucial for the VPs credibility and attractiveness for new Participants.

How do the VPs contribute to HR?

The innovative force of the VPs lies in the concept that security is a shared concern; that Companies are not secure unless affected communities are. Risk Assessments must cover risks to communities at par with risks to assets and personnel. Companies and governments should not distinguish between the security and the rights of members of communities and that of assets and personnel of Companies. This is a powerful concept and a major change compared to earlier predominant approaches to security.

I believe that the VPs has prevented and mitigated many human rights abuses. The reasons why I believe this is that its main requirements are integrated in managements processes of its 22 corporate participants, and beyond. Security related human rights issues are top-level management concern these days. Contracts with private security providers include human rights provisions. Tens of thousands of security providers receive HR training. I see a kind of dedicated experts working for businesses that were not there before. Security staff is vetted. With the VPs companies have a practical framework for dialogue with Governments. Human rights language is finding its way into agreements with State security providers. Undoubtedly, all this has effects. Companies that have effectively implemented such policies deserve our recognition.

Participating NGOs have been able to use the VPs as an entry point to become de semi-permanent advisers to companies, giving them deep access into corporate structures and

actually changing company cultures. They provide human rights training to security providers, analyse companies performance, recommend improvements, carry out RAs, and more. As security issues cannot be isolated from the larger picture, this leads NGOs like Funf for Peace to take a role in a broad range of things, from helping with MoUs with the public security forces, to being an active participant in crisis management trainings. I am convinced that this work has positive effects on security for communities and the human rights of vulnerable people.

But unfortunately, we don't know what that effect is. The Swiss Government's initiative to assess the effectiveness of the VPs is a chance to focus the attention of the VPs process to its actual impact on the most vulnerable groups. There is little support for this among companies, but for the credibility of the VPs it is paramount that this initiative succeeds.

Now, back to the people whose rights are at risk. The most visible result of the VPs are policies and processes. The assumption is that good-looking processes deliver handsome outcomes. This is a top-down approach, and top-down everything looks quite beautiful indeed. But those whose rights the VPs are supposed to protect do not experience the beauty of policies and processes but what extractive industry projects actually do to their lives and livelihoods. And what they experience is often ugly.

For example. There are Company security officers who chose to have such close cooperation with police and military, that if the latter commit violations, victims cannot only conclude that the company has been complicit. There are many community relations policies that look great on paper but that are in fact increasing polarisation in society. Many companies still accept hiring Government assigned security managers, sometimes infamous ones, because they prioritise smooth relations with Government security agencies to their VPs commitments. Company culture is often resistant to the notion of shared security. Some Companies routinely stigmatise people who are critical to controversial projects, sometimes with detrimental effect on the latter's security. I do not know many stories of Companies actually sticking out their necks to urge Governments to protect human rights. I know companies that are profiting from the effects of human rights violations by others and don't understand why that would be a problem. And I know too many victims of HR violations who are receiving no remedy whatsoever, too many people living under life threats because they are critical of company activities, too many people who have experienced a win-lose situation, in the sense that they lose and the Company wins. A long and discomfoting list of a disconnect between impressive management systems and observations and experiences on the ground.

So, we have useful principles, there are reasons to believe that they have a positive impact, but we're still far away from where we should be. The disconnect between what policies should and what they do deliver is unacceptable. The VPs themselves are not disputed, but in the end they will be judged for their success in protecting vulnerable people. The VPs process as it stands today is not sufficiently credible in the eyes of many people who are at risk. It needs to show results, deliver on remedy, integrate State obligations in its process, engage host governments, and enhance assurance. The new strategy that has been agreed under the Swiss presidency opens ways to tackle these issues. That will be the VPs litmus test.

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