

THE VOLUNTARY PRINCIPLES: COLUMBIA CASE STUDY

A. INTRODUCTION TO THE VOLUNTARY PRINCIPLES ON SECURITY AND HUMAN RIGHTS

The Voluntary Principles on Security and Human Rights (Voluntary Principles or VPs) are a tripartite, multi-stakeholder initiative that provides a set of principles to guide extractives companies in maintaining the safety and security of their operations within a framework that ensures respect for human rights and fundamental freedoms.

The impetus for creating the VPs was a series of incidents in the late 1990s related to the way security forces operated while protecting oil and mining installations in many parts of the world. Allegations of human rights violations leveled against U.S. and U.K. multinationals highlighted to their home governments the need to address the issue of human rights and security in the extractives sector.

The VPs were unveiled in December 2000 by the US State Department and the Foreign and Commonwealth Office of the United Kingdom, after a yearlong process involving government officials, oil and mining companies, and NGOs. The VPs has grown since to include participants include 18 European and North American extractives companies, 9 non-governmental organizations (NGOs), the Dutch, Norwegian, U.S. and U.K. governments, and 3 “observers.”

B. BACKGROUND ON THE COLOMBIAN IN-COUNTRY PROCESS

VPs member companies, together with their home and host governments, are encouraged to establish and/or participate in “in-country processes” to help formally integrate the VPs into host country policies and practices and to facilitate dialogue between the private, public and civil sectors around human rights and security practices. In Colombia, both companies and the Colombian government had expressed a willingness to engage on issues of security and human rights against the backdrop of what was a challenging operating environment.

In October 2003, an in-country process meeting was initiated in Colombia by the U.S. embassy in Bogotá. Attendees included representatives from U.S. and European oil companies, the Asociación Colombiana del Petróleo (ACP); ambassadors from US, UK, the Netherlands and Norway; and Colombian government officials from the Office of the Vice President, Ministry of Foreign Affairs, Ministry of Defense, as well as the Ministry of Energy and Mines.

This first meeting resulted in the decision to form a working group, which was first called the National Committee on the Voluntary Principles and then the Mining and Energy Committee for Human Rights, tasked with addressing the implementation of the VPs and reviewing broader security issues. Companies and government tasked ACP with convening and leading the committee Colombia’s oil industry association with more than 34 member companies, expressed interest in forming this committee

and a working group to review relevant issue areas and develop proposals to be considered by the National Committee.

The working group today comprises several multinational energy companies; Ecopetrol; the ACP, and various members of the Colombian government. The group reached a milestone when the Colombian Ministry of Defense agreed to include language on human rights protection, including a commitment to the Voluntary Principles, in agreements that Ecopetrol signs with the Colombian armed Forces to provide protection for oil operations.

B. OVERVIEW OF IN-COUNTRY PROCESS & EFFORT

In early 2004, the working group consulted with various actors and drafted a work plan for the VPs over the course of the next year designed to help advance implementation of the VPs in Colombia. The work plan was submitted to the National committee and was approved in March 2005. It has focused on the following four initiatives:

1. Improve Information Sharing Among Companies and Governments:

The working group identified a need to improve the exchange of information between companies, the Colombian State agencies, and home government embassies to allow for better identification of risks and the potential for violence. Efforts have been made to explore existing databases that catalogue such information and enable greater access to this wealth of data. The working group has already identified relevant databases in the Office of the President, the Ministry of Foreign Affairs, the Ministry of the Interior and Justice, the Ministry of Social Welfare, the Attorney General's Office, Inspector General's Office and the Ministry of Defense, and is currently exploring strategies for granting greater access to pertinent information. **Regardless of the medium, the key goal behind enhancing information sharing has been to help companies learn how the state bureaucracy works on issues related to security and human rights.**

2. Coordinating Responses to Human Rights Abuses:

The working group also established common communication channels and policies for responding to human rights violations. The group plans to engage the Attorney General's Office, Inspector General's Office, and Ombudsman Public Office as their participation is likely to be needed for such an arrangement to be successful. In fact, the aforementioned state agencies may even be invited to join the working group in order to solidify their involvement.

In 2008, the Committee engaged with various government institutions, including Ministry of Defense, the Office of the Attorney General, the Superintendence for the Control of Private Security Companies, and the Ombudsman's Office regarding the VPs. Not only has this helped inform government agencies, it has been helpful in creating a two-way dialogue on security and human rights issues between the companies and government agencies. Specific human rights abuses are discussed bilaterally between companies and the government.

- 3. Draft Performance Indicators:** International Alert, a London-based NGO and VPs participant, worked in partnership with Fundación Ideas para la Paz (FIP) to develop these performance indicators. The indicators were built upon International Alert's experience with piloting conflict sensitive business risk and impact methodologies with several members of the Comité Minero Energético in Colombia as well as FIP's survey of multinational oil and mining company security and human rights practices within the country. Additionally, International Alert convened a workshop at the Universidad Javeriana in June 2007. Companies in Colombia began to test these indicators in 2008 in consultation with other members of the Comité Minero Energético including Presidential Programme on Human Rights, the Ministries of Foreign Affairs and Defence and the Asociación Colombiana del Petróleo. The process in 2008 should be seen first as an opportunity for companies to develop a baseline related to their implementation of the VPs.
- 4. Risk Assessment Guidelines and Workshops:** In 2001, the ACP initiated the creation of risk assessment guidelines and corresponding workshops. In coordination with the government and certain companies within the industry, the working group developed a set of best practice guidelines for risk assessment based on eleven regional workshops throughout Colombia. Nearly 350 people attended these workshops, representing 40 companies from different sectors, as well as a number of state institutions, including the Armed Forces and Police, the Attorney General's Office, the Procurator General's Office, the Ministry of Defense, the National Hydrocarbons Agency, the Ministry of the Interior and Justice, and the National Geological Institute. The guidelines were reviewed by a number of stakeholders. The guide is available in Spanish on ACP's website.
(http://acp.com.co/assets/documents/asuntos%20publicos/gestion%20social/caja%20de%20herramientas/Gu%EDa%20de%20An%E1lisis%20de%20Riesgo/Guia_Analisis_Riesgo.pdf).

Currently, regional risk assessments are conducted by the military and by energy companies. The next phase of the assessments is to identify how security impacts surrounding communities.

C. FACTORS OF SUCCESS AT THE COUNTRY LEVEL

While it is challenging to quantify the impacts of the Colombian in-country process, anecdotal evidence appears to suggest shifts in company and country culture and behaviors with regard to human rights and security issues. Participants report they have become more accustomed to thinking about, talking about, and addressing these issues within the context of every-day business operations. Despite the inevitable challenges faced by those involved in the in-country process, the experience in Colombia underscores the fact that the Voluntary Principles provide an effective model for talking about sensitive issues with governments.

While there is no single formula for a successful in-country process, the Colombia process offers some important learning opportunities for in-country initiatives elsewhere:

- **Formal Adoption of VPs prior to Commencing Operations:** Whenever possible, companies should attempt to incorporate the Voluntary Principles into contracts and agreements prior to starting an operation. The highest level of national focus, support and attention is mobilized when a corporation initially enters a region, so this is the ideal time to encourage senior officials to make declarations and sign commitments, and to infuse the Voluntary Principles into contracts. Additionally, the host government is likely to be more willing to negotiate and commit to the Voluntary Principles in advance of a project than after it has already begun.
- **Formal Government Sponsorship and Institutionalization:** The success of the in-country process is in large part due to the highly visible support from the Colombian government in the form of sponsorship by Vice President Francisco Santos, who chairs the National Committee, and Human Rights Advisor Carlos Franco. The Colombian government “bought into” the VPs early on and has remained actively involved since the beginning. Vice President Francisco Santos championed the VPs and the gravitas of his office helped signal the importance of the initiative; this has likely been a crucial step in achieving maximum participation among relevant stakeholders. Further, the Ministry of National Defense “Comprehensive Human Rights and International Humanitarian (IHL) Policy” adopts and integrates the VPs in order to ensure that the activities of the National Security Forces in relation to the private sector meet human rights standards. (http://www.mindefensa.gov.co/descargas/Documentos_Home/Politica_DDHH_MDN_ENG.pdf) Through this institutionalization of the VPs, dialogue and accountability around human rights has increased across multiple stakeholder groups.
- **Local Champion and Coordinator:** The Asociación Colombiana del Petróleo (Colombian Petroleum Association or ACP) has proven to be a driving force behind industry involvement and the implementation process and has coordinated most of the National Committee and working group efforts. Having a local organization coordinating the implementation process appears to have helped significantly in achieving buy-in and support from companies. A local coordinator is also more likely to understand and address country specific challenges and cultural nuances that may pose barriers to successful implementation. ACP has since helped to implement the VPs (respects, guarantee, and realization) and facilitated regional risk analyses in the country’s oil-producing provinces. The scope of this work includes an assessment of potential violence, identification of stakeholder and project operations’ vulnerabilities and risk analysis guidelines. Observers have noted that it was beneficial to have an industry association such as ACP help companies with training, workshops, and communication with the government regarding human rights. This is a model for companies to use in the future.

- **Broad Participation:** Observers found that broad participation in the implementation process from the private sector was essential for success in Colombia. ACP helped to build an implementation process for the VPs on one that already existed focused on the “respect, guarantee and realization” of human rights that already had credibility and traction with its members. ACP also wanted to ensure the broadest industry participation possible and worked to position the issues of human rights and security, rule of law enforcement and strengthening of democratic institutions as relevant to all businesses. To encourage participation beyond the VPs Plenary, the working group name was changed from the “VPs Working Group” to the “Mining and Energy Human Rights Committee.” Multiple stakeholders have noted that some of the key participants who have advanced the implementation of the VPs are not a part of the Plenary.
- **Low Barrier to Entry:** ACP did not make formal adoption of the VPs a requirement to participate [in the working group]. This proved to help achieve broad participation and support for the process among companies. Currently, there are many non-VPs companies undergoing an extensive implementation of the VPs within their organization. Further, while ACP worked initially to influence its own members in oil and gas, participants now include companies in mining, power generation and food and agriculture.

C. BEST PRACTICES AT THE COMPANY LEVEL

Implementation best practices include the integration of the VPs with existing management systems and human rights and voluntary principles training programs for employees and security contractors. Overall challenges include the lack of system for reporting violations (often reports are not made or no action results from reports), inadequate staff resources dedicated to implementation of the VPs and a failure in instances to extend best practices to contractors. A few best practices from three signatory companies are highlighted below.

Cerrejón

- Multi-lateral collaboration: the company teams with NGOs, business partners, local government, and other third parties throughout various stages of the implementation process
- Continues to expand the depth and breadth of training: the number of people trained each year has increased significantly and training extends beyond employees and security forces to contractors, local communities, indigenous communities and students
- Thorough reports regarding alleged violations are completed and investigated. Two potentially criminal events have been prevented as a result of these reports

Occidental Petroleum Corporation

- Established a new security standard including VPs as a required framework for security management

- Require the completion of VPs and Human Rights risk assessments for all new exploration projects
- Adopted and applied performance indicators created by the VPs working group in order to assess the impact of implementing the VPs.
- Maintain open dialogue with public security: conducted Voluntary Principles and Human Rights workshops for soldiers.
- Provide accessible training materials: tools, case studies, and complementary web-based modules in Spanish are available to all employees and contractors on the company's intranet.
- Collaborated with International Alert and FIP to test the CSBP (Conflict Sensitive Business Practices) Risk assessment tool kit. This was applied to a new project in a highly conflictive region.

BP

- Appointed positions specific to the implementation of the VPs: a dedicated manager within BP's security function to support the overall implementation across the organization. In Colombia, BP employs two Public Security Relationship Advisors who are accountable for promoting compliance with the VPs in the implementation of the security agreement with the Colombian government.
- Has supported human rights-based training for security providers in key locations, including Azerbaijan, Georgia, Indonesia and Colombia. In Colombia, BP maintains ongoing support for education of public security in international humanitarian law (IHL), through sponsorship of the IHL military training track in Cupiagua. Training at the facility combines classroom time and re-enactment of situations through role play. Since inauguration of the facility in 2003 more than 10,000 soldiers have gone through the training.
- Utilizes various methods to assess the impact of its human rights training: anecdotal feedback from participants, third party evaluation of curricula, feedback from trainers, and independent monitoring of results.
- Creates tools and processes to enhance the efficacy and consistency of the implementation of the VPs across the organization, including an implementation guideline, an e-learning program, a survey tool that provides a framework to assess security-related risks to people and communities, a standard curriculum for training support for private and public security, and a template Human Rights Response Plan.

D. CHALLENGES FACED

While the process has enjoyed successes, participants have also encountered and continue to address a number of challenges that illustrate the need for a coordinated and sustained commitment to the Voluntary Principles by all stakeholders:

- **Initial lack of Local NGO Engagement: Until more recently, local** NGO engagement was limited, on a global level, the International Council of the Red Cross participated in the initial phases of the implementation. International Alert (IA) has also played a role, providing independent feedback on the implementation of risk assessments to Occidental,

Ecopetrol and Cerrejon. More recently, informal discussions have taken place with Pax Christi as well.

- A local Colombian NGO, Fundación Ideas para la Paz (FIP), participated with IA on the committee that designed the Voluntary Principles Indicators and also helped test the CSBP Risk Assessment.
- Multiple stakeholders acknowledged the varied NGO participation that various projects have received. Many feel there is a need for increased dialogue and collaboration in order to enhance the success and legitimacy of the Committee's efforts.
- The committee made a concerted effort to increase NGO participation through a variety of opportunities, including membership and other advisory roles. That said, although participating companies expressed a desire to engage NGOs and most engage with the independent sector regularly about practices outside the Voluntary Principles, some may be hesitant to share information on human rights performance.
- **Varied Level of Company Commitment and Ability to Implement the Principles:** Site operators tend to have the highest level of commitment and ability, while small companies and minority partners often feel ill-equipped to implement the Principles. There is some belief among working group participants that those involved in the process should work to standardize implementation of the Principles.
- **Varied levels of home government participation:** In recent years, there has only been inconsistent participation by Home governments.

SIDEBAR: KEY LESSONS LEARNED

The key lessons learned reflect the importance of “best practices” over standardized procedures. Both governments and companies have different cultures and systems into which VPs implementation needs to be adapted.

Begin incorporating the Voluntary Principles before operating: Whenever possible, companies should attempt to incorporate the Voluntary Principles into contracts and agreements prior to starting an operation. The highest level of national focus, support and attention is mobilized when a corporation initially enters a region, so this is the ideal time to encourage senior officials to make declarations and sign commitments, and to infuse the Voluntary Principles into contracts. Additionally, the host government is likely to be more willing to negotiate and commit to the Voluntary Principles in advance of a project than after it has already begun.

Convene a core group of committed companies with cross-functional support for the Voluntary Principles and designated champions: The in-country process itself is probably best served by identifying a core group of leading corporate members who recognize the importance of the Voluntary Principles and are willing to use their position to help influence host governments. It is also crucial that the process has a champion, and that each company has an internal champion to drive the process forward from within company, otherwise the process can become muddled and lose momentum. ACP has been credited as the real driving force behind the Colombian process and has coordinated most of the National Committee’s efforts. Internally, company support for the Voluntary Principles should be cross-functional, from the CEO to line management.

Gain buy-in from host government: Host government buy-in in the in-country process is crucial to achieving maximum participation among relevant stakeholders. A lack of host government buy-in can result in a process that does not accurately reflect the needs and concerns of all relevant stakeholders, thereby further complicating efforts to implement the Voluntary Principles. The success of the Colombian in-country process to date was catalyzed by support from Colombian Vice President Francisco Santos, who chairs the National Committee, and Human Rights Advisor Carlos Franco. Companies can leverage home governments as a diplomatic channel for accessing and engaging host governments on the Voluntary Principles.