

Summary & Key Findings

Baseline Study on VPs Implementation in Nigeria



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Natural resource extraction is a growing and significant part of the Nigerian economy. Companies in Nigeria need to secure and maintain their social license to operate. This means conducting thorough security and human rights due diligence processes (in addition to other relevant due diligence processes such as those focused on the environment), ensuring effective and inclusive community engagement, human rights-based codes of conduct and training for security providers working on operations, and making available effective complaints and grievance mechanisms. Security is a transversal and crucial element to include across these good practices because ensuring the security of operations

while protecting and respecting the human rights of communities continues to be a challenge for many companies in Nigeria.

In 2020 LITE-Africa published a report that highlights the progress and opportunities in the implementation of good practices related to the extractive industry and its management of security and human rights risks. This study reflects research into the current status of implementation of security and human rights good practices in Nigeria, specifically the Voluntary Principles on Security and Human Rights. The study identifies recommendations for improving respect for human rights whenever security providers are present in company operations. The Baseline study has served as an important foundation for defining the thematic priorities and workplan of the Nigerian National Voluntary Principles Working Group. LITE-Africa is developing and publishing this executive summary to continue to serve as a reference point for defining further engagement priorities in 2022 and beyond.

The VPs support companies, especially those involved in natural resources extraction in complex environments to effectively manage the risks associated with their projects. As a set of good practices, the VPs guide companies in ensuring respect for human rights when they hire or contract public or private security providers. The VPs support companies in maintaining the safety and security of their operations in a way that ensures respect for human rights and fundamental freedoms.

More specifically, the VPs provide 3 sets of good practices:

- ⦿ The VPs provide guidance on carrying out a human rights risk assessment to ensure that human rights are respected whenever security providers are active on company facilities and premises.
- ⦿ The VPs support companies in structuring human rights-compliant arrangements with public security providers, when these are assigned to work on company operations.
- ⦿ The VPs help companies put in place processes and policies to ensure that any contracted private security providers respect human rights.

The Voluntary Principles Initiative (VPI) is the multistakeholder international initiative that supports the implementation of the VPs; it is composed of governments, civil society, and companies. The VPI provides a platform for mutual learning, joint problem solving, and a framework for building the capacity of local multistakeholder working groups to support more effective VPs implementation. The VPI's membership currently counts 10 governments, 33 companies, 16 CSOs, and 9 observers.

Though Nigeria is not currently a member of the VPI, a number of governments, civil society and company stakeholders are working to strengthen the implementation of the VPs. In particular, the Nigeria national Working Group on the VPs (NWG) comprises government ministries, embassies, CSOs and companies that work together in a multistakeholder setting to strengthen VPs implementation and advance the level of awareness and support of Nigerian companies for the VPs. The NWG is currently co-Chaired by a Nigerian civil society organisation - the Leadership Initiative for Transformation and Empowerment (LITE-Africa) - and the Swiss Embassy to Nigeria. Inaugurated in 2017, the NWG focuses on 3 main activities:

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● **Training and capacity building:**

The NWG supports various programmes and courses on the VPs for public and private security actors. The NWG also builds capacities of CSOs on using the VPs in their advocacy and monitoring efforts.

● **Outreach and engagement of key stakeholders:**

The NWG seeks to foster awareness of the VPs and to promote the NWG as a forum for constructive dialogue among different key stakeholders. In one important activity, the NWG engaged focal officers within relevant Nigerian Government institutions; representatives from the Ministry of Mines and Steel Development, Justice, Nigeria Delta Affairs, Police Affairs, Petroleum Resources, as well as the Nigeria National Petroleum Corporation were identified as critical stakeholders for advocacy engagement related to the VPSHR. An important outcome was identifying focal officers from each ministry to attend NWG meetings and champion the implementation of the Vps.

● **Research on challenges in security and human rights to support identifying the needs of communities for further VPs interventions:**

In 2019, the Co-Chair of the NWG developed a national baseline assessment that explores the current status of implementation of the VPs in Nigeria and identified gaps, pathways and recommendations for strengthening implementation.

The Report of the National Baseline Assessment of the VPs provides empirical evidence to demonstrate the current status of implementation of the VPs in Nigeria and identifies gaps for improvement. The study reflects findings from both extractive and agricultural industries and identifies recommendations for national regulators and civil society who wish to strengthen respect for human rights whenever security providers are present on company sites and operations. Importantly, the study also provides recommendations for corporate actors who wish to ensure professionalism and high standards in their security arrangements and ensure community members' human rights are respected.

Key Findings

National regulatory challenges:

- At the time of this writing (February 2022), the Nigerian government is not yet a member of the VPI. By joining the VPI, the government would communicate its high expectations for companies to ensure respect for human rights by their security providers
- There is a need to develop comprehensive and targeted laws, regulations and standards to require respect for human rights by the extractive industry. Relevant government ministries lack awareness of existing international and regional initiatives and instruments that could support developing national policy frameworks.
- Government stakeholders face challenges in clarifying the responsibilities of companies regarding human rights and human rights-compliant security arrangements. Relevant national laws are not effectively and systematically applied to companies.

- Existing government mechanisms to prevent and address human rights violations arising from the security arrangements of companies should be strengthened. Several government agencies implement laws related to the extractive industry and focus on environmental impacts. However, there is no central oversight mechanism for the extractive sector which would monitor their human rights compliance in security arrangements.
- Government oversight agencies, such as the Nigeria Human Rights Commission should also be empowered to take a more active role in ensuring engagement with communities on needs for regulation, monitoring and accountability.
- Public security is not sufficiently trained on the VPs by national agencies nor there is a strong clarity on mechanisms to prevent and address potential violations by these actors.

Policies and processes of companies:

- Not all interviewed extractive companies have joined the VPI (44% in 2020 at the time of writing). Of those, 70% have integrated security and human rights responsibilities into company policies and practices.
- More direct engagement between companies and CSOs would ensure that companies hold more inclusive

- consultations before developing their security arrangements.
- Building more awareness among local CSOs about the content of the VPs and the potential roles of different CSOs in the VPs Working Group and the VPI more broadly is needed.
- Risk assessments undertaken by companies do not include sufficient background checks into records of human rights respect by private and public security.
- Company mechanisms to address incidents and complaints from the local community are not sufficiently well known. Where they are understood by stakeholders, those mechanisms are often perceived as slow and ineffective. Company grievance mechanisms should be aligned with good practices and the UN Guiding Principles on Business and Human Rights.

Mitigating impacts on communities:

- More resources are needed to build capacities of civil society and support more targeted implementation and monitoring efforts.

- Consultation of communities by extractive companies on the risks and impacts of the extractive industry should be more robust and systematic, with outreach specifically focusing on traditional community leaders.
- Companies should ensure that they include women and women's grassroots organisations in consultations.
- Companies should include minorities and groups in vulnerable situations such as youth and child rights organisations, ethnic and linguistic minorities, and the elderly in consultations with communities.
- Communities need a more systematic outreach and awareness-raising on the VPs and other good practices in business, security, and human rights.

Companies should seek to gain free informed prior consent of indigenous peoples before starting operations.

Recommendations

For the government

- The government of Nigeria should engage with the VPs by making public policies or statements that demonstrate government commitment to ensuring respect for human rights and fundamental freedoms by companies and their security providers.
- Develop, review, update existing legislation to enable the implementation of human rights in the business sector.
- Strengthen the level of awareness of national regulatory instruments. The role of the National Orientation Agency should be strengthened as a critical partner for the sensitization of the broader public.
- Ensure that relevant government agencies are effectively trained in monitoring the implementation of legislation in order to prevent human rights violations.
- Strengthen incident and complaint mechanisms and their availability to communities. Communicate the processes to stakeholders.
- Strengthen judicial processes and systems to ensure accountability.

For civil society

- Engage with companies via the Nigeria VPs Working Group or other trusted mechanisms or multi-stakeholder platforms.
- Undertake research and monitoring of the human rights and security impacts of companies and share the findings widely. Share experiences and knowledge on the VPs with other CSOs and networks of organisations

For civil society

- Include the VPs in broader programmes in communities beyond those that address the environmental impact, livelihood impact, poverty, etc. For example, VPs could be included in children's rights programming.
- Create awareness programmes on the VPs and human rights in communities. Utilise a variety of approaches: web-based platforms, radio, in-person meetings.
- Train and sensitize community members on human rights complaints and reporting mechanisms.

For companies

- Create awareness and increase knowledge of the VPs and other security and human rights standards among company staff (inter alia: senior management, field staff, security managers, community relations officers, human rights, and CSR staff)
- Include the human rights records of the chosen security provider (public or private security) in the risk assessment. Demand records from the security providers and reference them in agreements and MoUs.
- Consider innovative forms of security arrangement: stronger engagement with community members, leveraging lessons learned from other programmes such as the Pipeline Facilities and Surveillance Programme of the Niger Delta.
- Strengthen reporting and monitoring mechanisms on VPs implementation to measure effectiveness: Measure the perceptions of communities of the companies regarding the security arrangements. Integrate lessons learned in improving accountability systems.

For companies

- Deepen and broaden consultations with local communities to ensure strong participation from women, women's organisations, youth, children's rights CSOs, minorities, indigenous peoples, and their representative organisations.
- Include respect for the VPs and other relevant good practice initiatives such as the International Code of Conduct for Private Security Providers (ICoC) in contracts with private security and UN Basic Principles on the Use of Force by Law Enforcement and the Code of Conduct for Law Enforcement Officials in MoUs with public security.

For the VPI

- Allocate resources to CSO and government activities that are specifically aimed at VPs implementation. Ensure that activities represent the interests and concerns of vulnerable communities affected by the company activities.
- Develop capacity-building programmes for local CSOs and government MDAs on promoting compliance with the Vps.
- Develop capacities of in-country working groups and work with other international partners to support sharing lessons learned, tools, and good practices.
- Facilitate experience sharing across different working groups from different regions or countries.

For the Nigeria VPs Working Group

- Coordinate and lead the implementation of the report findings by pillar members.
- Engage with the government to monitor VPs implementation.
- Create public awareness and engage the media to bridge the information gap between the VPs WG and the broader public.
- Use the report findings as a tool for multistakeholder dialogue and engagement with other stakeholders.
- Build the WG workplan to integrate the report findings and recommendations.
- Share experiences on the baseline study project with the VPI to enable lessons learning.
- Update the draft National Action Plan on Business and Human Rights with the report findings.

In addressing public security and private security providers, the VPs recommend that companies should consult with governments and communities about the impact of their security arrangements. Security providers should have a high level of technical and professional competence, particularly with regard to the use of force and firearms. Only defensive security services should be permitted. Any allegations of human rights abuses should be properly investigated and if necessary, referred to the correct authorities. In addition, the VPs recommend that companies using security providers include these principles in the contractual arrangements or agreements with public security providers and ensure that security personnel are adequately trained.