

Protected but Exposed

MULTINATIONALS AND PRIVATE SECURITY

Multinational corporations (MNCs) are major consumers of private security, which they rely on to protect their property and assets as well as staff. Private security companies (PSCs) themselves are under increasing scrutiny in response to allegations that they have committed human rights abuses in conflict zones. Private security forces employed by MNCs have been involved in incidents of alleged human rights abuses and armed violence, though a lack of data makes it difficult to gauge the incidence of such violence and little research has been done on MNC use of PSCs.

MNCs using private security face numerous challenges related to their use of security. Their control over private security personnel varies significantly depending on the context. In conflict or post-conflict areas, MNCs may have difficulty finding disciplined, well-trained private security personnel who have not been linked to hostilities. Weak oversight and regulation of private security forces create accountability gaps and potential conflicts of interest.

Weaknesses in regulation and gaps in oversight may create conditions for violence.

This chapter focuses on some of the problems surrounding MNC use of private security and associated misuse of force or arms. Using the lens of extractive MNCs, it examines conditions under which MNCs use private security, and those under which PSCs might misuse force or firearms while in the employ of MNCs. It also reviews mechanisms that exist, both legal and otherwise, for holding MNCs accountable regarding their use of PSCs.

Key challenges in MNC use of private security

The dearth of research on MNC use of private security prevents comprehensive analysis across any particular industry, setting, or region. Yet research for the chapter sheds light on key characteristics of this type of security, as well as on the factors that enable the misuse of armed force by PSCs. The chapter shows that while the use of in-house security has the potential to provide an MNC with better oversight and control over the activities of its security personnel, it can also impede a company's ability to respond appropriately if its own security personnel are involved in the improper use of force.

The use of private versus public security also poses challenges for MNCs. They might turn to private security for reasons of enhanced control (real or perceived) over security provision through the use of contractual arrangements. The chapter finds, however, that the degree of control an MNC has over private security is not a given, but can vary significantly depending on the situation. In addition, MNCs might rely on private security to avoid using public forces in countries where the police or army are unreliable, weak, or have a record of human rights violations. Nonetheless, the lines between public and private security can be blurred, for example through the recruitment of private security from public forces with poor human rights



A security guard stands near an ExxonMobil rig in Kome, southern Chad.
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A foreign security contractor guards a drilling site of the Norwegian oil company DNO in northern Iraq, November 2005.
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records, complex arrangements in which public and private security are combined for the protection of MNCs, the use of active-duty personnel to guard private property, and access of such personnel to firearms. These factors can foster impunity among PSC personnel as well as an erosion of community trust in MNCs and their security providers.

Regulatory frameworks and other approaches to accountability

Legal regulation of PSCs, generally weak at the national level, is non-existent at the international level, a situation that has led to the creation of international initiatives to address private security contractors' behaviour and clarify their responsibilities under international law. These include the Montreux Document, which unifies existing legal obligations of states under international humanitarian law and international human rights law in relation to contracting and regulating PSCs, and the International Code of Conduct for Private Security Providers (ICoC), which sets out standards of conduct for PSCs in areas such as the use of force and reporting of incidents.

There are no international legal standards on human rights specific to MNCs, their business, or their joint venture partners (such as PSCs), although human rights groups have continued to call for such standards. It is difficult to hold companies liable under international law for the misuse of force or firearms by employees, and few countries seem to have specific legislation on MNC use of private security. While domestic law offers possible avenues to holding corporations accountable, important obstacles remain.

The most important soft law initiative addressing MNC use of private security is the Voluntary Principles on Security and Human Rights (VPs), designed for extractive companies and aimed at providing guidance on how to maintain the security of their operations while still respecting human rights. Despite their weaknesses, the VPs are likely to be an important element in addressing the challenges MNCs face in using private security. Along with the ICoC and the Montreux Document, the VPs constitute part of an emerging set of standards that address expected behaviour of both PSCs and their employers.

The ICoC, the Montreux Document, and the VPs could be mutually reinforcing.

These initiatives cannot replace international or national law. The effectiveness of the ICoC will depend in part on the ability of its accountability mechanism (which has yet to be created) to monitor and build industry capacity to implement standards. Likewise, the legitimacy of the VPs will depend in large part on increased uptake of its standards and a greater capacity to monitor compliance and to sanction non-compliance. It is in the interest of MNCs to work towards the success of these initiatives and the strengthening of the standards they promote. ■