

‘Who protects the protectors?’

– Labour rights issues in infrastructure private security

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1. Introduction

This paper discusses the labour welfare and rights challenges faced by private security personnel working on internationally financed infrastructure projects. The authors aim to add to the existing body of literature by providing an impact assessment (IA) practitioner’s perspective, drawing on their experience of undertaking construction monitoring against international labour and working conditions best practice standards in a range of different sectors and country contexts. The paper discusses gaps between project commitments to uphold labour standards and the reality for private security. We conclude by recommending that there is rarely a single cause for the abuse of security guards’ labour rights, but rather a combination of factors including ineffective government regulation, unclear or absent employment contracts, lack of trade-union access, and the absence effective project grievance mechanisms. Regarding solutions, we propose a multi-pronged approach is required involving government, civil society, trade unions, private security companies, project developers, lenders and finally social impact assessment (SIA) practitioners, who have an important role to play in ongoing construction labour compliance monitoring, corrective action planning and capacity-building.

2. Context and Literature Review

The specific challenges faced by security industry workers is not a topic well-covered in social development and IA literature. However, it has recently been receiving increased attention due to the increase in use of private security and recognition of the unique challenges faced by those who work in the sector.

This is in the context of a general increased focus on labour and working conditions and workers’ rights in private sector developments since the turn of the millennium. Civil society brought the issue of workers’ rights to light with organisations such as Amnesty International placing “labour rights... at the heart of the fight for human rights” (Amnesty International, 2003).

The International Finance Corporation (IFC) responded with the introduction of Performance Standard (PS) 2 on labour and working conditions in 2007. This consolidated the requirements of the International Labour Organisation (ILO) Core Labour Standards (CLS¹) into compliance obligations placed upon infrastructure finance borrowers. Under the banner of the Equator Principles (EPs)², many other private and commercial bank lenders also commit to meet IFC PS2 and demonstrate best practice in labour and working conditions in the projects they finance.

¹ The CLS consist of five standards (laid out in eight conventions): 1&2) freedom of association and the effective recognition of the right to collective bargaining; 3) the elimination of all forms of forced and compulsory labour; 4) the effective abolition of child labour; 5) the elimination of discrimination in respect of employment and occupation

² The EPs is a risk management framework, adopted by financial institutions, for determining, assessing and managing environmental and social risk in projects and is primarily intended to provide a minimum standard for due diligence and monitoring to support responsible risk decision-making.

The topic of security and human rights also received increased attention with the introduction of the United Nations Voluntary Principles and Security and Human Rights (UNVPSHR) in 2000, and alongside IFC PS2 and PS4 focussed on safeguarding the human rights of affected communities who encounter security staff. Since then, some social commentators have linked the labour and security agendas by revealing patterns and themes related specifically to the plight of security guards.

In his study of the private security industry in Zimbabwe, Mariwo (2008, on behalf of the ILO, p3) found that:

“Although the security industry has continued to expand over the last 20 years, this growth has not been matched with congruent quality working conditions or the remuneration required to give the workforce dignity at the workplace... among its deficiencies are jobs that are short-term or temporary, long and illegal working hours, poor remuneration, underpayment, non-payment, massive illegal dismissals, unhealthy working conditions, exploitation and sexual harassment.”

These findings were mirrored by a later study in Ghana in (FES, 2011) which, based on a survey of 500 private security workers, collected statistics on guards' welfare as summarised in Table 1 below.

Table 1: Labour welfare statistics in private security in Ghana

Topic	Labour welfare indicator	Survey Findings
Salary	Receiving pay below national monthly minimum wage	61%
Overtime payments	Not paid for overtime	76%
Leave entitlements	Do not have access to paid annual leave	74%
Contract	Do not have signed employment contracts	59%
Medical coverage	Without access to medical care	88%
Unionisation	Without trade unions at their workplaces	82%
Collective bargaining	Not covered by collective bargaining agreement	89%
Gender discrimination	Women without paid maternity leave	74%

Source: Data extracted from FES 2001 study into Wages and Working Conditions of Private Security Workers in Ghana'

The literature identifies the overarching reasons for denial of rights as the lack of trade union protection and lack of an effective legal and regulatory framework. Mariwo identified significant differences in the wages, benefits and working conditions of private security workers who belong to trade unions (with 72% having signed employment contracts) and those who do not (38% without contracts).

On the topic of regulation, Ejeta (2017) attributed the challenges faced in the Ethiopian private security sector to the absence of laws setting minimum wages or holding security companies accountable. This is compared to India and South Africa, countries with strong labour legislation where specific regulations for labour rights of security personnel exist (Department of Labour, 2009; Government of India, 2005).

The remainder of this paper adds to this body of literature by providing a practitioner's perspective, supported by project cases studies, on the challenges and solutions.

3. Impact assessment practitioners' experience

The themes identified from the literature review have been evident in numerous IA and construction monitoring consultancy projects that the authors have worked on, as summarised in table 2.

Table 2: Findings from construction monitoring against labour standards

Project type / location*	Context	Lack of contracts or unfair conditions	Excessive working hours /unpaid overtime	Non-provision of workplace/ accommodation amenities	Threats of dismissal
Small hydropower project – Uganda	Four security guards worked 24-hour shifts, seven days per week. They devised an internal rotation system to allow one to obtain sleep, however, were threatened with immediate dismissal if any were caught sleeping on the job. Sleeping occurred near the outside fire, on the ground, without protection or shelter. Guards had no amenities (kitchen, toilets, etc), received no training or equipment and had no contracts in place. They were desperate for income, and therefore were reluctant to request any changes to their working conditions.	X	X	X	X
Wind farm - South Africa	A single security guard was tasked to work multiple shifts on multiple days in a remote location, while being stationed on site permanently without accommodation amenities (e.g. a bed or a kitchen to prepare food). The guard prepared meals over an open fire outside, and slept sitting upright in a chair. Desperate for employment, he was willing to accept the poor working conditions as at least he was paid overtime for the excessive working hours.		X	X	X
Opencast coal mine - Zambia	The guards requested mine management to implement a rotation system to allow those who had been working nights over a number of months to also work day shift on occasion, in order to mitigate the health and wellbeing they were suffering. In response, they were threatened with immediate dismissal by management.	X	X		X
Large hydropower project - Pakistan	Private security was not included in the labour management and monitoring requirements of the project. Guards claimed that they were forced to work excessive hours above the limits of the Pakistani labour code and they were not paid for overtime. They had no awareness of the project grievance mechanism. They were sometimes forced to sleep in food storage areas to guard food overnight whilst working day shifts.	X	X	X	X

* The projects are confidential therefore cannot be named

4. Causes and Solutions

Based on the literature reviewed and the authors IA and construction labour monitoring experiences, there is rarely a single cause for the abuse of security guards' labour rights, but rather a number of contributing factors:

- Ineffective government regulation – in many countries labour laws do not adequately cover the private security industry and/or are not adequately enforced through regulation and punitive measures;
- Absence of or unclear employment contracts – even in cases where guards have contracts, it is often not clear whether it is the security company or the project company that is accountable for their welfare (accommodation, food, clothing, etc.);
- Lack of trade-union access - results in weakened oversight and collective bargaining mechanisms to regulate working conditions and educate security personnel on their rights;
- Absence of effective grievance mechanisms – as shown by the case studies in Table 2, many guards feel that they cannot raise workplace concerns without fear of dismissal;
- Inadequate risk screening, mitigation and monitoring - systemic issues cannot be addressed unless they are identified, however this is often an overlooked area in IA and monitoring activities;

In addition to the above, developers' priorities are often to complete projects as quickly and cost-effectively as possible, resulting in contracts frequently being closed without due regard of security welfare standards. This is compounded by the fact that security is often seen as a cost-saving area.

When considering solutions, the starting point must be the national laws and regulations. Lessons can be learnt from examples of good practice. For example, South Africa has implemented specific labour standards for the security industry (Department of Labour, 2009). These cover aspects such as minimum wage, working hours, overtime, overtime limits, and rest periods. The standards specifically arose out of the need to regulate the security industry and safeguard security guards' labour rights, and are supplementary to the national labour legislation, and therefore caters to the needs of the security industry. There are still challenges in implementation, as shown by the South African wind farm example in Table 2 where unregulated security guards were used and lines of responsibility and accountability between private developer, security contractor, and government were unclear.

In conclusion, this paper argues that no single intervention or solution will be effective. Rather, a multi-pronged approach will be required involving multiple parties, each with a role to play:

- Government – labour protection laws are essential and private security companies need to be regulated effectively through well-resourced labour agencies and with punitive measures for non-compliance;
- Civil society – has an important role to play in holding private companies and government to account through identifying labour rights violations;
- Trade unions – are critical, especially when the legal framework is lacking or poorly enforced;
- Private security companies – have the primary obligation to provide employment contracts and meet obligations therein, including providing non-wage measures such as medical care and protection for women, which is very important in hyper-inflationary contexts (Mariwo, 2008);
- Project developers – must comply with the law and good industry practice on project sites, including providing accommodation other amenities in the workplace; and
- Lenders and IA practitioners – IA processes should be used for early screening and identification of risks and designing effective mitigation and monitoring plans.

As well as at the IA stage, labour specialists should be used at site pre-mobilisation stage of projects to advise on contract provisions for security service providers that ensure that commitments to uphold labour and working conditions are contractually passed down to security companies. Thereafter, effective third-party

construction monitoring of labour and working conditions by appropriately qualified labour specialists is important too. The objective of this is to identify non-compliance with the law and project requirements, and to implement corrective action plans. In some cases, it will be necessary to build the capacity of project participants through training in safeguarding the wellbeing of security personnel and other workers.

Finally, in the future there is the opportunity to expand the scope of this paper to include consideration of public security, which introduces new important challenges to be overcome related to the lack of leverage that the private sector can play in influencing military security forces.

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