

STUDY TO ENHANCE REGULATION OF PRIVATE SECURITY COMPANIES IN MYANMAR:

ENHANCING PROTECTION AND RESPECT FOR HUMAN RIGHTS

BACKGROUND INFORMATION FOR STAKEHOLDERS

May 2020

Myanmar was selected in 2016 as one of the three pilot countries (with Nigeria and Ghana) for the roll-out and implementation of the Voluntary Principles for Security and Human Rights (VPSHR) at local level. Further information about the VPSHR and Myanmar in-country implementation can be found in Annex and on MCRB's website¹.

The in-country Myanmar VPSHR Steering Committee (currently co-chaired by TOTAL, and the Australian Embassy, as global chair of the VPSHR 2020-2021) has identified the gap in regulation of private security companies (PSCs) in Myanmar as an area of potential opportunity for incorporating human rights protections and good practices (see **Annex** for PSC Scope).

The Steering Committee have engaged with government to understand their plans for regulation, and with the Private Security Service Association (PSSA) which brings together some Myanmar PSCs. Since 2014, individual parliamentarians have argued for regulation to be introduced, and in 2016/2017, the PSSA made suggestions to government and Parliament based on Indian, Singapore and Japanese approaches, but no progress has yet been made.

One reason for the lack of progress appears to be that the current landscape of the sector is not well understood, including by its potential regulators or by legislators. MCRB is therefore undertaking this study with support from the Voluntary Principles Association to assess the landscape for PSCs in Myanmar, including human rights risks and impacts, and the scope for incorporating human rights protection into any future regulation under the government/parliament to be elected in 2020, as well as identifying and translating into Burmese the basic human rights elements of standard training.

The objectives are to:

- establish baseline information about the PSC sector in Myanmar which can in principle be shared with all stakeholders, including current institutions, companies in the sector and civil society organisations
- identify issues and examples of the human rights risks and impacts of the PSC sector in Myanmar, which can also serve to inform human rights impact assessments by individual companies
- summarise good practice regulation of PSCs in other countries, including through inputs from the Voluntary Principles Initiative (VPI) and ICoCA²

¹ <https://www.myanmar-responsiblebusiness.org/dialogues/voluntary-principles/>

² The Switzerland-based International Code of Conduct Association which leads on international standards for the PSC sector.

- develop a strategy to support the development and regulation of a private security company sector which protects and respects human rights including:
 - recommendations for key points to be included in Myanmar's regulatory framework, reflecting the VPSHR, including elements and materials for mandatory training related to human rights
 - identifying red flags/points of concern that should be avoided in the regulatory framework
- make recommendations for ongoing role of the VPSHR in-country group, in this area, including proposed advocacy approach.

The study is being undertaken by MCRB's extractives team (Aung Kyaw Soe and Khin Moet Moet Myint), with the support of a consultant, Niels Huby of RVN Myanmar, with Myanmar-based security experience, and under the supervision of MCRB Director Vicky Bowman and the in-country Steering Committee on whose members' expertise fit will draw, as well as international VPSHR stakeholders.

The output, reflecting the above, will be included in a short report (in EN and MM), intended for sharing with stakeholders, and publication on MCRB's website.

As a result of the study, it is hoped that the various stakeholders concerned including government (as regulator), legislators, companies, civil society and the media would have a common set of baseline information which would provide them with more confidence to proceed with regulation that takes into account human rights and governance concerns.

Basic Myanmar language training material for PSCs on human rights, gender and graduated use of force will also be developed and provided to PSCs and other stakeholders, and made available online. In addition to uptake by PSCs, it is intended that these topics would be reflected in the regulatory requirements for training. However, it is not in scope for the project to undertake training of PSCs.

As part of the engagement during the study and after publication, advocacy on the regulatory framework would begin with key stakeholders although regulation would not be passed during the project period. However, MCRB will continue with advocacy after the study, and also seek to build a coalition with other stakeholders.

Commercially sensitive information, including about individual companies will not be published/shared. Nor will any information which attributes good or bad practices to particular companies, or other information which interviewees request should be kept confidential³.

MCRB has an operational grievance mechanism for use by anyone who believes that their human rights have been, or might be, adversely impacted by MCRB's work, including through this study. www.myanmar-responsiblebusiness.org/resources/complaints-and-grievance-mechanism.html

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³ A similar approach was adopted in MCRB's Sector-Wide Impact Assessments (SWIAs), including on the Oil and Gas, and Mining sectors. <https://www.myanmar-responsiblebusiness.org/sectors/>