

SCEG Symposium 20 September 2016 – Dame Glynne Evans script

You may think that I have said everything there is to say on human rights and the private security industry. Not so. You will remember that your auditors ask at the end of every audit how you are doing on “continual improvement”. The CBs take that seriously as you should, and besides the goal posts keep moving.

When it comes to human rights, ever more is asked of the business community by way of commitment, corporate responsibility, good practice and transparency. And because of the past, we have to do more and show more. Precisely because of that past and the marauders and desperate incidents of the early days of this industry, we have been fortunate in that international concern led to the Montreux Document and the International Code of Conduct as well as the suite of standards ANSI/ASIS PSC 1, ISO 18788 and 28007 which give us so useful a framework for our activities, and which is not (yet) replicated for any other business sector.

Risk Management and PSCs/PMSCs

Our task is risk mitigation and management of threats: PSC industry is enabler. We help Governments, companies, international organisations, the shipping industry and NGOs operate in parts they could not otherwise reach whether for reasons of direct or indirect threat, or in areas where generalised volatility and insecurity present a threat to normal operations. British PSCs do not fight wars; they do not conduct offensive operations. They analyse, assess, advise, prepare, warn, train, build capability, track, and survey, protect and defend. In some cases, that may mean carrying guns whether on board ship or on land. In many cases, guns remain only a theoretical option and are rarely employed but they always remain an important deterrent. As we have seen at sea, ships carrying armed guards in areas of risk are rarely attacked. And in managing the risk, a key part of the task is managing also the reputational risk for the clients as much as for personnel. Any bad practice, any incident of abuse will reflect on all other PSCs/PSMCs in the industry as well as on clients and their reputation.

So collectively we have learnt the hard way and probably appreciate perhaps better than other sectors:

- i) That human rights abuse and even allegations of abuse represent a major reputational issue for a company and for its clients
- ii) Respect for human rights must be integrated into our core company values. The requisite training and understanding should be deeply inculcated into the company's approach down to the lowest level so that from the Board Director to the guard force all are actively giving effect to the same principles. (It is no longer a time for a standards or compliance/human rights adviser off to the side).
- iii) In this we differ from American corporate culture that tends to have a policy paper on human rights written by a corporate lawyer which can be presented in court. We prefer not to arrive in Court at all.

- iv) And we are fortunate that we have unique Standards negotiated for our industry and an accredited certification process which provides the framework.

Assurance and Accredited Certification

We now have 4 Certification bodies accredited by UKAS for land and for maritime operations, 26 companies who have accredited certification to PSC1 globally, with 10 to ISO 18788 (only published a year ago), and 60 now to ISO 28007. It is a pretty good achievement. For any insurer or client who wishes to know whether the company they are looking at has accredited certification, you look for the UKAS tick inside a circle for the specified standard.

For those who are not familiar with the term accredited certification body – that denotes an auditing and certification organisation which has been accredited by the UK Accreditation Service (the national body which is part of the IAF MLA¹) and which for the UK is the Government approved national body which can give accredited certification against a specified standard.² In Europe at least a certification body admitted to the IAF MLA has been vetted and validated nationally and internationally and is also governed by an EU Regulation.

Let us just look at the certification process a little that since the process is widely misunderstood. There is “assurance” whereby a business asks an auditor to look at for example working hours in a factory”. A single facet of employment in a single site very often conducted by a local auditor not from an accredited CB and I am told that indeed comfortable relationships can and have been built up which NGOs rightly criticise. (And I have heard a top mining security executive say that his office was papered with worthless certificates of this kind).

In the case of PSc1/ISO 18788, it is as if that single assurance process was multiplied not by 10 or by 50 but by very much more . PSC1 uses the word **shall** 183 times i.e. 183 requirements under which a non-conformity i.e. failure to meet the required level can be raised. (ISO 18788 increases that number on the human rights side – not yet counted) . And there are also a further 60 instances where an auditor would wish to see documented information as to how a procedure works. And that is just for starters. And though it is somewhat mechanistic as a form of looking at an audit, you will have something that could amount to 1500-2000 different aspects that are examined as part of getting a sense of the process and procedures a company follows in its management systems in the security space and as regards human rights commitments.

To be more specific – take the key area of incident reporting which is umbilically linked to incident management and monitoring. The exam question would cover provision for incident

¹ Multilateral Recognition Arrangement - An IAF member must go through stringent peer group evaluation before being admitted to the MLA. The US and EU members are party to the MLA.

² . Counterparts are ANAB in the US, Dutch Accreditation Council, Swiss Accreditation Service, France – COFRAC. All of whom are MLA approved unlike Russia. None of these have yet taken the commercial decision to be accredited to this suite of standards

reporting “(common to both land and maritime standards). If this was a tick box exercise, the answer could be "Yes/No", a piece of paper is produced and all sides move on quickly. But under the approach followed by the accredited CBs, the list of issues to address might draw on the following even though there are only 4 “shalls” in the relevant para in order to have an indication of due process:

"Does everyone understand the incident reporting procedure? How have they been trained?"

“In what languages is the training conducted?” (Swahili, Pushtu, Dari etc.). Are there records of the training? For how many years are the records kept. (Should be 7 under the Standard subject always to data protection).

"What definition is used of an incident"? A contact or an RTA is pretty simple. But what about a child running into the road of a convoy - nothing happens because the drivers are sufficiently skilled? Is that an incident to be reported? Or a fishing vessel that turns back when they see an armed guard on deck.

What is the reporting procedure? And what follow up?

“To whom are the reports submitted and when, i.e. how soon after”?

“What about lessons learned in the case of an incident avoided?

“What evidence is there that the reporting procedure is adhered to”? What does the internal audit say and how often?

“Apart from paper, is there physical evidence – videos, audio tapes, photos? Are these securely stored?”

“Has the reporting procedure been discussed with the client?”

“Where there has been a serious incident, is there ability as far as possible to protect evidence against tampering or interference for later investigation by competent authorities?”

What discussions take place with local community representatives /civil society e.g. if the child in the road came from a school on that route, are there alternative routes? Is there dialogue with the school?

“Is the insurance company notified and the client? Or if only in certain circumstances, which circumstances and who takes the decision?”

“Did the report of the incident require follow up action? Internally or externally with interested parties e.g. with local community leaders? With what effect?”

“Have there been any complaints as a result of the report which are at variance with what has been reported?”

“Did the report lead to any redress/compensation/or remediation? What form did this take?”

“Were there any lessons learned for training/operations in the future?”

And so forth. Phew. And in this single facet you are covering/cross referencing many other areas of the Standards not to speak of the core issue of the management of incidents more generally (which would have needed a couple of pages) to explain.

And this exhaustive process is not only happening once a year but is followed by a surveillance audit 12 months later. And it is not just HQ visits but field audits as well, sometimes in very “lively” circumstances so that an auditor can trace the impact of a report of an incident and the follow up and see what changes have been made as part of continual improvement. And if the auditor found any area that was weaker or non compliant at an earlier audit, he is likely to test that aspect thoroughly on the next visit as well as asking for progress under "continual improvement".

But, but. We cannot stand still. The goal posts have moved again. Looking at the list of companies who have published a report on compliance with the Modern Slavery Act 2015 on the website of the admirable Business and Human Rights Resource Centre , there is only one PSC. Any company with a turnover in excess of £36m is obliged to publish an annual report on its website on slavery and human trafficking including due diligence on its supply chain (and without copying from other companies – believe you me civil society is on to this and indeed there is software for plagiarism). Perhaps you are below the limit as a British arm of a foreign company. No. But take care and talk to the lawyers since you may still be obliged, as also your foreign parent, because it is the global total and the position of Britons in the overall management structure.

And a phrase used to me by civil society is that virtually all companies will have some element of slavery in their supply chain “if only they chose to look”. Since we already have to answer for our supply chain in terms of human rights under the Standards and the International Code of Conduct, we can be ahead of other sectors. I hope by next year I hope all SCEG members who qualify will be reporting.

And then there are the UNGPs. Here you need to keep your eyes wide open because the responsibility to respect, protect and remedy is beginning to move from soft to hard law – particularly if you are an American company.

If you, your guard force or staff go regularly to a bar which has in its workforce some illegal immigrants (bar girls, kitchen staff) who have been trafficked, you are caught both under the Modern Slavery Act and the UNGPs and the standards.

Most of the commitments you make under the UNGPs are covered by the ICOC and the Standards. However, “remediation “is an outlier. What it means in general terms is “cooperating in processes to remedy the human rights impact that you might have contributed to”. I am not a lawyer. But in the case of the bar that is possibly using trafficked migrants as bar girls (East Europeans in Africa for instance), use your common sense, stop using it, make it out of bounds for staff, and make sure that a suitable NGO is informed.

You should all be aware of the Five Step Guide for Company Boards on how to address the UNGPS published in May 2016 by the Equality and Rights Commission: “Expectations of doing business with respect for human rights”.

Much of this will be familiar under the Standards: identifying the risks: the operating context risks, workforce risks and public policy risks. Need to engage with stakeholders: clients, insurers, local community leaders, civil society – local and international with the aim of having a constructive dialogue on salient risks. And there is an obligation to report this publicly. For this industry, that is problematic because such public reporting could impact on the security of clients. So it worth discussing with them what is feasible. Common sense again. And one approach is to report in the context of the reports done for Modern Slavery act together with the UNGPs.

The Guide tells you to ask 5 questions

- a) What is the company doing to make respect for human rights an integral part of its business model;
- b) Be clear as to the potential impacts on human rights
- c.) What steps are being taken to reduce risks of an adverse human rights impact
- d) What dialogue is there with stakeholders
- e) What kind of public reporting is being done about these challenges and what indicators are there as to progress. On the last, I suggest establishing some metrics with your Certification body.

Clients/Stakeholders

But what about the clients. Yes indeed. The lack of interest and response from large corporations who use our services is striking. Prior to this event I was in touch with most of the oil majors to urge them to start to discuss the value of ISO 18788/PSC1 for them in contracting security providers. All (except one) replied to a greater or lesser degree. Which is already a great advance on a year ago when no one replied, And one has suggested that the right communal forum for their own discussion is not the one I had suggested (IPIECA) but another Oil and Gas grouping. So I shall be following up.

The message we wish to get across to large corporations, IOCs, mining or other, is that we all now have a shared interest in our approach to human rights impacts. We have negotiated some very far reaching standards against which we can be independently assessed in terms of management and security processes and our human rights impacts. "So please oh IOCs will you start demanding security providers who have accredited certification – not *'who plan to do so'* but who have already walked the walk and integrated these elements into all their management systems. And “Oh large corporates, if you too choose to have your corporate security departments audited against these standards, you are then well placed to cascade the obligations down to your state security providers as well". You can legitimately claim that

these are international standards which have been negotiated by States and companies and NGOs which are becoming the norm; And you IOC in Ruritania/Miner in Oxystan wish to see the Ruritanian oil/Oxytanian mine protection force apply them as well. And if the Ruritanians/Oxytanians need to be trained in the human rights aspects we are all willing to help in “capacity building”. **And to the extent that accredited certification to the Standards becomes the norm, then those who do not employ security providers with accredited certification could find themselves more vulnerable in any legal proceedings.**

And I hope that Civil society – here today in the person of Danielle McMullen from the Business and Human Rights Resource Centre which keeps tabs on how all industry comply with the commitments they have accepted will also take the message back to the corporate world that these are important standards – the first time human rights have ever been auditable – and they should pay attention.

There is a famous French classic comic play about a businessman (The Bourgeois “Gentleman”) who wished to better himself .He recruited experts in fencing, dancing, tailoring and philosophy and one of his great wishes was to be able to speak “in prose”. . And courtesy of his professor of philosophy, he was astonished to discover that all his life he had actually been speaking “prose”.

I would not say that the PSC industry is yet speaking “prose” aka human rights” but it is walking the path of integrating human rights risk into its policies and practices as it goes through the certification process and it is doing so from one of the riskiest sectors of business. It is not just having a HR or even an HRRIA policy piece of paper .Now over to Danielle McMullen of the Business and Human Rights Resource centre – delighted she is here today.