KEEPING YOUR PEOPLE SAFE: THE LEGAL AND POLICY FRAMEWORK FOR DUTY OF CARE

CORPORATE PERSONNEL SECURITY IN EMERGING MARKETS: WORKING PAPER 1

By Rachel Briggs

ABOUT THE RISK AND SECURITY
RESEARCH PROGRAMME

As the number of individuals, companies, non-governmental organisations, charities, aid agencies and governments operating around the world grows, their exposure to all manner of threats is increasing – both at home and abroad. As the Prime Minister described in his 2003 New Year message, "for many people the defining characteristic of the modern world is insecurity".[1] The great opportunities of increased global movement of people, money, products and cultures are offset by the insecurities that result. Politicians, policy-makers and policy-actors face two important challenges. Firstly, the **threats are becoming more complex** and the links between them mean we need more sophisticated solutions. Secondly, the **boundaries of responsibility between actors need to be clarified** to take into account the growing number of groups and individuals affected; the fact that companies, NGOs and governments increasingly employ multi-national workforces; their ability and incentives to take action to protect themselves; and the emerging debate about global social responsibility.

The Foreign Policy Centre's **Risk and Security Research Programme** will tackle these two challenges through a series of research projects, publications and events. As well as looking at the individual threats, the programme's work will also tackle the pivotal questions, such as:

How should we manage threats? How can we move from a largely responsive policy framework to one that promotes and invests in prevention and deterrence?
How can the different policy actors – from companies to aid agencies – work together where they have shared interests? What decision-making forums and tools are needed for this ideal to become a reality?
What responsibilities does each policy group have – both to their direct stakeholders and also to the wider policy community?
How can we balance the interests of each group against the broader public interest?
How can we 'join-up' policies to tackle different threats? How can we build more links between policies to tackle security and threats overseas with the challenge of homeland security?

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ABOUT THE FOREIGN POLICY CENTRE

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ABOUT THE AUTHOR

Rachel Briggs runs the Risk and Security Research Programme at The Foreign Policy Centre. Her work focuses on how the changing security environment impacts on key foreign policy actors – from government and companies to individual citizens and employees. Her report, *The Kidnapping Business* put forward a practical policy agenda for all the major groups involved – the Foreign Office, business and NGOs. The report received considerable attention among these policy groups. As a result of the report, the Foreign Office has changed the way it organises its travel advice for those visiting hot spot countries, and the report is used as a training tool for NGOs exposed to the threat. *Travel Advice: Getting information to those who need it* examines the challenges for the Foreign Office, tour operators and companies of communicating important information about risk and safety to citizens, customers and employees. Many of the themes raised are being followed up in more detail for companies as part of the research project, *Corporate Personnel Security in Emerging Markets*. Rachel also recently edited the collection, *The Unlikely Counter-Terrorists*, which argued that the business community must be actively engaged in counter-terrorist policies and activities in the UK.

Rachel's work has been covered in newspapers, such as the Financial Times, the Sunday Telegraph, the Times, and the Sunday Express; and in specialist publications, such as Energy Day and Foreign Policy Magazine. Rachel regularly broadcasts and writes on kidnapping, terrorism, corporate security, travel advice and other aspects of the new security world order.

ACKNOWLEDGEMENTS

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INTRODUCTION

Security never seems to be far from the headlines. Indeed, in his 2003 New Year message, the Prime Minister went so far as to say, "…for many people the defining characteristic of the modern world is insecurity".[2] For the rising number of British companies investing in emerging markets, insecurity is something they are keen to avoid. They must balance the opportunities on offer against the threats present, and ensure the security risks, often higher or different from those at home, are properly managed. Employees living and working in emerging markets must contend with a wide range of threats, from health problems and petty crime, to kidnapping and terrorist attack.

This working paper will show that one of the most important policy tools – the legal framework – is severely limited in its ability to deliver safety for employees in emerging markets. While companies have, by law, a duty of care to their staff, there is little guidance about what this means in practice. This leaves companies to develop policies independently without a lead on best practice, and it also means it is difficult to prove whether or not companies have met their obligations when cases are brought to court. Changing the law would be a slow and arduous process and is unlikely to prove an effective response to this situation in the medium- or even long-term. In any given country and against any given threat, there are so many variables influencing decisions about the best course of action that it would be impossible to write them all into the law. Furthermore, because British law is changed through precedent change relies on cases not only reaching court but being settled in court. There are few examples of this happening as the greatest incentives are for the companies and individuals involved to settle out of court.

It is therefore important for companies to go beyond the letter of the law and develop policies that effectively manage the risks to their staff. There will always, of course, be those companies that turn away from their responsibilities and the law must be there to hold them to account. But for those companies who take the security of their staff seriously, one of the main obstacles is the absence of agreed standards of best practice to guide their policies. While it is impossible to develop hard and fast rules that will be effective, lessons should be learned and knowledge spread across the business community so the many can benefit from the experience of the few.

Corporate policies alone provide only a partial solution, though. Individual employees must also take on certain responsibilities for their safety and security. Policies cannot be totally prescriptive and will therefore always be open to interpretation, employees have different needs, and companies cannot be held responsible for the way their employees behave in their free time. To be able to take this responsibility individuals need access to

information that will enable them to make informed decisions and companies must create a corporate culture in which employees feel confident expressing their concerns. Companies must avoid the temptation to overcome this by cocooning their staff. Risks can never be totally eliminated, and while 'fortress security' may reassure employees and protect them from some threats, it prevents individuals from creating the know-how and confidence to take responsibility and can also make the company and its staff a more visible target.

This working paper is the first published output from the *Corporate Personnel Security in Emerging Markets* research project and focuses solely on the relationship between employer and employee. A second working paper examining the role of the UK government will be published in Spring 2003 and the final project report, which will make a series of policy recommendations, will follow in July 2003.[i] Research for the first stage of the project continues and it is hoped that publishing this working paper with preliminary findings and questions for further examination will prompt feedback, new ideas and pledges of involvement in the rest of the research process.

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[i] For more information about the rationale for the project please refer to the section, 'The Context for the Project'. More information is available on The Foreign Policy Centre's website (www.fpc.org.uk) or from Rachel Briggs at Rachel@fpc.org.uk

Keeping Your People Saf

THE CONTEXT FOR THE PROJECT

Emerging markets[ii] offer extraordinary opportunities for profitable investment. But these opportunities come at a price: risk and uncertainty. Beyond market volatility and economic uncertainty, companies face a variety of threats to the security of their people.[3] Companies and staff can find themselves the direct target for many groups, from terrorist networks such as Al Qaida to disgruntled local communities protesting about the company's behaviour or presence in the country and criminal groups targeting visibly western individuals for everything from street crime to kidnapping. For example, the US State Department estimates that 397 of 531 facilities struck by international terrorist attacks in 2001 were business.[4] As well as these direct security threats, companies and their staff must also manage the underlying security and safety risks associated with operating in emerging markets, which are often categorised by social, political and economic instability. In some areas, growing anti-Western sentiment is exacerbating these underlying risks.

The risks will at best stabilise and could feasibly continue to rise for the foreseeable future. Therefore, if companies are both to deliver on their duty of care to staff and to contribute towards the development of long-term and sustainable business opportunities, they must find ways to keep their staff safe when they are living and working in these regions. There is evidence to suggest that some companies are managing these risks by reducing their number of business trips. Overseas business travel from the UK rose by an average of 7.4 per cent per year between 1997 and 2000.[5] But it is estimated that between 2000 and 2005 business travel will grow by a *total* of 7.4 per cent over the whole period.[6] This decrease is not sustainable into the long-term if British companies are to continue their expansion into emerging markets. Others may choose to transfer their risks through traditional methods such as insurance. This enables them to recoup any financial losses but does little to prevent an incident from happening in the first place. While this may satisfy investors and shareholders that returns on their investments are secured, it will not keep staff safe. This approach to risk management may be acceptable for some assets, such as products, but people are special assets and risk management strategies must be based on the principle of prevention and deterrence. But more worrying is evidence that many companies are doing little or nothing to manage the risks for staff. In a recent

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[ii] The official definition of an emerging market is "A financial market of a developing country, usually a small market with short operating history" (www.investorwords.com). The term is also applied more broadly to cover not just the financial market of these countries, but the country itself. This research project adopts the broader definition, and includes most countries across Asia, Latin America, Africa, the Former Soviet Union and Eastern Europe.

survey of 5000 companies, only 45 per cent had business continuity or consequence management plans in place.[7]

Some companies, though, are taking a responsible approach to keeping their staff safe in emerging markets and the final report for this research project will showcase some examples of best practice through a series of case studies. Although the detail of policies and procedures varies from company to company, broadly speaking these are the companies that are not just committed to meeting their legal obligations to staff, but are committed to delivering real results for their people on the ground. As this working paper shows, there are limits to the legal framework in its current form and reform would be a long and difficult process that wouldn't necessarily translate into enhanced safety for individuals anyway.

For those companies less persuaded by what might be termed the 'moral' case, this project will make a strong *business case* for them to go beyond the letter of the law. These arguments will be developed in forthcoming seminars and in the final report, but companies need to consider:

- *Reputational damage*. Even for companies following the letter of the law, they could suffer if they are perceived to have failed to look after their staff. Companies are becoming increasingly aware of the link between effective security and crisis management and reputational management, and they should ensure personnel security is factored into their planning.[8] Reputational damage ultimately hits a company's bottom line.
- *Recruitment*. If a company is seen to have a poor record in looking after its staff, it may suffer recruitment problems, or staff may be reluctant to take postings in emerging markets.
- *Sustainable investment*. The way in which a company organises its security, as well as the way it behaves more broadly within the local communities in which it operates, will ultimately impact on its continued need for security into the long-term.

While there is much that companies can do – indeed, they should take the lead – the UK government also has an important role to play. The government has an interest in and a certain responsibility for both the safety of Britons working in emerging markets and the long-term sustainability of British companies operating in these areas. The UK has more investments overseas than any other country after America, and the presence of British companies overseas brings benefits back home.[9] It is also in the interests of the UK for Britons to have the opportunity to live and work overseas. Outward investment is also, crucially, important for the development of markets across the developing world. But investment needs to be managed in the right way and security management is part of this process.

Domestically, of course, the government sits at the centre of a policy framework to keep employees safe, but there is less clarity in its role overseas. Exactly how its responsibility should be translated into policy to cover employees overseas will be explored in the next stage of the project, which will examine what the UK government is currently doing and make recommendations for change.

CORPORATE DUTY OF CARE

Companies have a duty of care to keep their employees safe and secure, and this is as true in the UK as it is in emerging markets. Their responsibilities are enshrined in law, are non-delegable, companies cannot contract out of them and they are extra-territorial. In practice, though, the extent to which the law can help to keep staff safe by ensuring even basic standards of care are observed is limited. This is in part due to the difficulty of being prescriptive: the dangers range from country to country, region to region and over time; and any number of variables will influence the most effective methods of protecting staff, such as the identity of the individual, their personal circumstances or the nature of their work. It is impossible to legislate for all these different variables, and a one-size-fits all approach would likely result in a lowest common denominator solution which would produce limited results. Even if it were possible to enshrine the details of best practice in law, the slow speed of legal change would make it difficult for this to keep pace with the changing threat environment in emerging markets. Instead, companies themselves need to take the lead in developing models of best practice, and the challenge for the policy community is to work out how to transfer lessons across the business community and harness what is quite considerable potential.

The Limits of Duty of Care Law
All employers have a duty to provide a safe place and safe system of work and to take reasonable care not to expose employees to unnecessary risk. Risk assessment is, in many ways, basic common sense. In legal terms, if a company hasn't carried out this simple process it will not even get off first base in defending its processes in the courtroom. Yet the basic nature of their requirements means that companies have to do very little to meet their duty of care. This means that the law at present is limited in its ability to be a tool to deliver safety for employees in practice. In delivering their duty of care, employers operating from the UK have a responsibility to carry out and review risk assessments for their staff and operations overseas. They have to demonstrate that they have made reasonable efforts to assess and control risk, and they are not expected to do this perfectly.

The Management of Health and Safety at Work Regulations 1999, Regulation 3, states:

"Every employer shall make a suitable and sufficient assessment of ... the risks to the health and safety of his employees to which they are exposed whilst they are at work [and of others affected by his undertaking] ... for the purpose of identifying the measures he needs to take to comply with the requirements and provisions imposed upon him by or under the [health and safety at work legislation]. Any assessment ... shall be reviewed by the

employer ... if there is reason to suspect it is no longer valid ... or ... there has been a significant change in the matters to which it relates ... and where as a result of any such review changes to an assessment are required, the employer ... shall make them"

And the Health and Safety Executive (HSE) interprets the obligation as follows:

"The risk assessment provisions ... say that your assessment of risks must be either 'adequate' or 'suitable and sufficient'. These mean the same thing and tell you that you do not have to be overcomplicated. In deciding the amount of effort you put into assessing risks, you have to judge whether the hazards are significant and whether you have them covered by satisfactory precautions so that the risk is small." HSE Guidance, A Guide to risk assessment, December 1999 (current), page 16.

The legal framework at present in the UK – and across much of the world – leaves many companies confused about what their responsibilities are for staff safety and security and how they should deliver them in practice. For example, companies sometimes struggle to work out the parameters of their duty of care: Firstly, who are they responsible for? What is an employee? Does this category include subcontractors or partners? Do their responsibilities extend to the employee's family? What about the local staff? Secondly, when are they liable? Are they confined to the workplace? What about the journey between home and work? What responsibilities do they have for their employees' time outside work when they are living and working overseas? Thirdly, there are remaining ambiguities when a company owns a majority stake in another company but does not have control over its operations. To what extent can they be found liable if something goes wrong?

Even if these fairly technical problems could be overcome, the law alone is not necessarily the best mechanism through which to keep staff safe on the ground. Notions of best practice are likely to change frequently over both time and place, but the law would struggle to keep up. Making large-scale changes to legal statutes can be slow, and statute law tends to be inflexible and prescriptive. Change through precedent relies on cases reaching the courts, which can be time-consuming and expensive. There are also question marks over whether those who have recently been through a traumatic experience will then wish to put themselves through a lengthy court case precisely at the time they are most keen to get back to 'normal life'. Even where cases reach court, there are strong incentives for both the plaintiff and the defendant to settle out of court, which means that no precedent will be set. There have also been cases where corporate restructuring has left the assets of the company out of the reach of the claimants, even when damages have been awarded or agreed out of court.[10] And of course, there are still

uncertainties about jurisdiction over incidents that happen overseas and that potentially involve a number of different nationalities of both employees and companies.

The law does seem to have had some success in overcoming the problem of doing business across borders and with a multi-national workforce by allowing cases to be heard 'back home' as well as in the country where the incident takes place. Under law, a company's duty of care is extra-territorial and so is not limited to within the UK. Individuals who fall into danger overseas can choose whether to sue locally in the country where the incident took place or back home in the UK. The UK tends to be the favoured location for these actions for employees of UK-based companies as levels of compensation and health and safety standards tend to be higher here than in many emerging countries. Companies cannot easily get out of their potential liability by creating subsidiaries through which local operations are controlled. The key here for English courts is to determine where control rests, and this will differ in each individual case, depending on the management structure of the company and group in question. The only significant way that the employer's overall established liability for negligently causing injury to employees can be reduced is if the employee can be found guilty of contributory negligence.

The case brought against Cape plc is instructive here. In this case, employees were able to pursue their claim in a different country to where the harm had occurred and were able to argue that control – and therefore responsibility – rested not with their immediate employer, but at the top of the corporate tree. Cape was sued by a group of former employees who contracted Asbestosis while working at Cape's asbestos mines in the Northern Cape, South Africa in the 1970s. Although Cape and its London-based largest shareholder the Montpellier Group sold its mines in 1979, lawyers for the South African victims sought permission in July 1999 to take legal action against the company in England. A year later, the House of Lords ruled that such an action could take place. After a protracted court battle incurring legal fees of more than £6 million, a settlement agreement was reached, whereby Cape plc would pay compensation of £21 million.[11]

Of course, the complexity of doing business across borders means that companies may need to ensure they comply with the laws of a number of different countries. Even within the EU, there are significant differences in the civil and criminal laws of each member state, including in the scope and extent of employee protection, which is among the EU's leading topics for harmonisation across the Union. This seems a sensible area for further work aimed at harmonizing laws across the EU. In terms of the well-established principles of risk assessment and risk management, though, there is no reason why the core obligations of employers should not be extended and

applied to employees wherever they are in the world. While there are remaining concerns about certain aspects of the new anti-terrorism legislation, it is instructive here as its powers are extra-territorial.

The Role for Companies
In the absence of a strong legal framework able to do more than enshrine the *principle* of duty of care, and given the limitations of the law as a tool for safety, the responsibility for unpacking duty of care falls to companies themselves. The business community is far from homogeneous, not least in its approach to personnel safety and security. A company's approach is informed by a number of factors, most notably by its level of specialist security experience, its access to information and its corporate culture. Some smaller companies may not have the resources to be able to offer the same levels of care and support as larger multi-nationals, while larger companies may conversely find their size inhibits the personal contact with staff that can be invaluable in communicating travel advice. Companies with less experience of investing in higher risk areas may struggle to implement comprehensive security policies on their own. Some are able to draw on the services of external security consultants and providers, while others may not have the budget to afford this option. Companies are also developing different models for managing security, from highly centralized systems focused on HQ to ones where responsibility lies as far down the corporate tree as possible, usually with local business managers.

Against this backdrop, it is vital that those companies with more experience are able to pass on the lessons they have learned to smaller or less experienced companies for the benefit of all. Staff safety should not be a way of gaining competitive advantage. Benchmarking is an important tool, which enables security managers to peg themselves against their peers in other companies. As well as providing much-needed guidance for those with staff in emerging markets, this information would also prove invaluable in providing proof of the negligence or diligence of companies in meeting their duty of care. In an area of law where precedent is key to change, this could help to maintain a role for the courts in setting and upholding standards.

There are some examples of this type of activity happening informally already. On a sectoral basis, organizations such as the International Association of Oil and Gas Producers (OGP) are helping to spread best practice among their members. This has the benefit of focusing on the challenges specific to oil and gas producers. Security membership organizations, such as The International Security Management Association (ISMA), are at the center of efforts to professionalise corporate security and are actively benchmarking among their membership of corporate security managers and directors.[12] There is currently no broader framework to harness the efforts of disparate groups, which makes progress slow and

patchy. It tends to be limited to those sectors that have learned the hard way, most notably the extractive industries, or to companies with a large enough presence overseas that centrally co-ordinated policies become the preferred practice. It is also largely driven by security professionals. This means that lessons are generally only passed on through corporate security managers so those companies without this function – usually the smaller or less experienced ones – tend to miss out. The challenge of the policy community, including companies themselves and national governments, is to find ways to co-ordinate these efforts, to build and maintain this momentum and ultimately to ensure that the whole is worth much more than the sum of its parts.

Information
Information, both about the threats to staff safety on the ground and about the type of best practice that has been discussed, is one of the most important tools for companies. It is important that companies are able to access information from as many different sources as possible, from both within the company and from external service providers. In fact, having a range of sources ensures that the company is in a much stronger position to take decisions about the safety of its employees and does not have to delegate these to an outside organisation. The relative autonomy of the individual employee depends on the level of risk they are exposed to. When they are working in higher risk environments, companies tend to maintain control centrally, whereas in lower risk areas employees are provided with information and given a lot more latitude to make decisions about their daily routine.

In the course of this research, a number of corporate security managers have expressed concern about the availability of criteria that could be used to defend the decisions they make in delivering their duty of care to staff overseas, and the extent to which their perceived liability will increase if they act outside 'official' recommendations, such as travel advice from the UK Foreign and Commonwealth Office (FCO) or US State Department. When the FCO advised against ALL travel to India in 2001, some corporate security managers who believed it was safe to continue operating found it difficult to justify their decisions to colleagues back in HQ who were concerned about the reputational, legal and financial consequences for the company of going against this advice.

There are questions over whether the FCO should provide more information for UK companies in order to meet its own responsibilities for British business interests and British citizens. The December 2002 report by the Intelligence and Security Committee, *Inquiry into Intelligence, Assessments and Advice prior to the Terrorist Bombings on Bali 12 October 2002*, recommended that FCO travel advice, its purpose, target audience and presentation be reviewed as a matter urgency.[13] As part of this review, the FCO should

consider its specific responsibilities towards the business community and ensure that information and advice is available and presented in such a way that can help companies to keep their people safe.[iii]

It is clear that there are serious limitations to the extent to which the law can translate the *principle* of duty of care into *detailed guidelines* and *best practice* for companies. It is vital that companies understand what their duty of care entails and what they need to do to deliver on it. Many companies are taking the lead themselves and it is vital that the policy community finds ways to harness these efforts so that lessons are learned and applied right across the business community rather than within a minority of companies. The safety and security of staff is of paramount importance, but collective action seems to be the best way to make progress. It is important that there are mechanisms for holding to account those companies that fail to take their responsibilities seriously. Better understanding of best practice would help to strengthen the powers of the courts to a certain extent but would not tackle the barriers to bringing a case. This must be a priority for the policy making community.

[iii] At a recent project seminar, the question was raised of whether the UK government could be held liable if a Briton fell into danger because of a lack of information that the FCO had access to but had chosen not to put within the public domain. The role of the government will be explored in more detail during the second stage of this research project, when this and other questions will be explored.

PERSONAL EMPLOYEE RESPONSIBILITY

Just as companies have a responsibility for their staff, employees in turn have a responsibility for themselves and their company to take risks seriously and do everything they can to keep themselves safe and out of harm. There is also a practical case for individuals to have a role. The way in which corporate personnel security policies are applied will limit their effectiveness in keeping employees safe, and the decisions and behaviour of individuals are a limiting factor. Individuals do not always pay attention to information they receive or choose to act upon it; different employees will have different needs from their company; different corporate cultures will be more or less comfortable dealing with the issue; and certain methods of communication are more likely than others to get the message through to the people who need it. While there is much that individual employees can do themselves to help manage their exposure to risks, their ability to do so will be limited by a number of factors, and companies must take these into consideration when designing and implementing their policies. This chapter examines two key types of factors – those relating to the individual themselves; and those relating to the company and its approach to risk management and staff safety. Ultimately, as is true across all areas of policy, application is just as important as content.

 Individual Factors
A number of psychological factors will influence the way an individual approaches business travel and responds to the risks it brings. 'Culture shock' describes the stress, anxiety, lack of direction produced when an individual enters a new environment. The extent to which an individual suffers 'culture shock' will determine their ability to effectively manage the risks they face: stress causes all non-essential functions, including memory and judgment, to shut down. This leaves an individual to rely on their instincts, which, for new risk environments, are unlikely to be developed. This will therefore impact on their ability to apply information or advice in such a way that will keep themselves safe. Culture shock is an extreme version of everyday stress. For many people, the effects of culture shock can be reduced through fairly simple training or advice ahead of their trip, which can help to develop new instinctive behaviour that overcomes these reactions. This might include information about the risks that are present and how to recognize the warning signs, as well as advice about ways to avoid danger or get out of trouble when it arises.

Companies should, importantly, avoid the temptation to manage risks by cocooning employees from their local environments. It is impossible for companies to eliminate all threats by this means, and without contact with the local culture employees won't be able to read the danger signs that enable them to predict problems arising and stay out of trouble. Researching the

effects of the social and physical environment on expatriates in West Africa, Wicker and August showed that recognition of cultural differences is one of the key defences to staying safe. They call this an individual's 'sense-making' cycles, "…people as they go about their daily lives are exposed to a vast array of events…the particular environmental events that they notice depend on their existing 'cause-map', their prior understandings about the world." This explains why even employees who live in cities with higher crime rates in the UK than their posting can fall victim to local street crimes because they are unable to read the signs as they would have done at home.[14] Travel advice can help by providing information that allows individuals to create their new sense-making cycles: instinct is a tool to be exploited, but it needs to be pre-programmed.[15] Companies can help by ensuring employees have sufficient time to settle in and language skills to allow them to integrate themselves.

There are also those factors that training cannot easily overcome. Those prone to stress are likely to respond less well to training than those who are not. While this is not something that companies can influence, they should think carefully about the people they send overseas, particularly to demanding countries or regions. It is also true that risk taking is a defining characteristic of many of those willing to take overseas assignments. Companies must take steps to ensure that these individuals receive clear guidance about the balance between reasonable and unreasonable risk. Companies might want to consider widening the amount of staff screening they carry out to ensure that individuals sent to risky parts of the world are those best able to cope.

Ultimately, companies must respond to what Lloyd Roberts has termed their employees' 'scale of needs'.[16] Each will need different types of help and support, and some more than others. As well as those differences between individuals determined by psychological factors, an individual's needs will also be influenced by their length of stay in a given location, for example, expat versus frequent business traveller, their experience of travel, and the nature of their work.

Company Factors
While factors relating to the individual will influence their ability to play a role in managing their risks, the actions and behaviour of their employer will also influence their likelihood of staying safe.

Company Culture
A company's culture is perhaps the most important factor influencing the extent to which its staff will be kept safe. Companies need to develop 'pro-security' cultures, where security is considered integral to the running of the business, rather than something that gets in the way of business priorities.

Those companies that adopt this culture are likely to go beyond their legal obligations in delivering security for their staff. A company's culture will also determine the extent to which employees feel comfortable discussing their worries and fears with colleagues or managers. Individuals require a tool-set from their employer, but may avoid asking for help in a company that does not take security seriously. A company with a pro-security culture is more likely to take a broader view on security, and appreciate the connections between their company's behaviour and their long-term security needs and therefore, ultimately, the sustainability of investment opportunities in a given region or country. There are numerous examples of companies that have suffered security threats as a consequence of either their security policies or their general operational behaviour.[17] And the corporate world is also starting to realize the resulting impact on reputation.

There is much discussion within the corporate security community about how this culture can be encouraged. Corporate culture is, after all, a product of the policies, practices and attitudes of leaders with a company. As well as changing the detail of personnel policies, one other possible solution would be to have security representation at board level, or at least to ensure that the corporate security manager – if there is one – reports as directly as possible to their board. This would help to promote the profile of security within the organisation. One company representative that was consulted reported that they have now inserted a security component onto their company's management training programme for fast-streamers. This is motivated by a desire to make security a concern across the company outside the corporate security department, thus becoming an integral factor in all company decision-making.

Management Structures
One of the greatest challenges for companies when developing their corporate security strategy is ensuring that the policy works in practice. There is often a marked difference between what is agreed to on paper in HQ and what can be achieved on the ground, and management structures and systems can have an important bearing on the extent to which policies turn from theory into practice and deliver genuine safety for employees. Many of those with responsibility for security, especially locally in end markets, take this on alongside another main role, which means they do not necessarily have specialized experience to bring to the position. It is also important that there are strong ties between the central control in head office and local managers on the ground. Local managers should have an opportunity to feed into their company's policies and structures to ensure they are deliverable, and companies might consider, for example, holding annual lessons-learned exercises with their major posts, or posts with significant security risks. This would give both local managers and staff a stake in the process and would help to make the policies and procedures more appropriate for each location.

Communication

Security briefings and travel advice can equip individuals with the information they need to make everyday decisions that help them avoid danger. But the value of this information is limited if it fails to reach its intended audience, or if the individual does not then act upon it. The key here is ensuring that employees have an accurate perception of the risks they face and the fact that advice can help them to avoid these threats.[18]

Companies must examine the methods and channels they use to communicate with staff, and the content and detail of the advice they issue. There is limited value in setting up a website if there are not, for example, regular and direct prompts for individuals to visit it or have the information delivered directly to them. Companies should also avoid information overload that can cause employees to switch off from all advice. This project will go on to examine, through case studies, the types of information a number of companies are making available to their employees, the way it is presented and their methods of communication, and the final report will contain more detailed information and recommendations.

There is also evidence to show that individuals respond much more positively to advice when they are able to see the direct relevance to themselves. Dr Jim Alvarez, a psychologist who works with many multi-national companies on these and related issues, comments, "You need to answer the question – what does it mean to me? Why do I care about this?"[19] In a recent study, Paul Barker surveyed BG employees in Sao Paulo and Cairo. A large proportion of respondents described the briefings they received on the ground as some of the most useful. He states, "In-country security briefing and the sharing of security information between colleagues and friends outside the company were rated high by the respondents as effective sources of information."[20] Some security managers have commented that they find it useful to organize briefing sessions for staff in-country where they are able to listen to those who have experienced security incidents first-hand and apply these lessons to their own lives in the same location. Communicating security messages on the ground where the threats are present brings the issues to life, giving an added sense of urgency for employees to listen and take action. These messages are much more credible than dry communiqués from head office.

The company must also establish its relationship with dependents, and find ways of communicating with individuals who have only indirect contact with the company. Research from Paul Barker's study concluded that those with dependents present during their assignment tended to take a more active interest in security, although the presence of a spouse and/or children can increase the overall risk exposure. Anecdotal evidence from corporate

security managers and security consultants suggests that it can often be easier to tackle an individual's security during their personal life as a family issue with spouses and children taking an active role, too. One company representative present at a research seminar noted the value their company had gained by holding dinners in high-risk end markets at which security issues were discussed.[21] Spouses and children were also invited to attend and this helped to make security a family issue.

CONCLUSION

This working paper has shown that as more and more companies are operating in emerging markets, and as the conditions on the ground in these countries remain unstable, it is important that there is a comprehensive policy framework in place to ensure staff living and working in emerging markets remain safe. While companies have a legal duty of care, the law can do little more than enshrine this as a principle. In the absence of more substantive guidelines, this leaves those companies that want to look after their staff with little information about how best to do that, and those that want to shirk their responsibilities free to do so. This situation needs to be addressed. It is vital that better information becomes available about best practice and that lessons are spread across the business community. It is also important that individual employees understand their own responsibilities for their safety and have all the tools available to enable them to behave in the correct ways to the threats they face.

The research will continue to consider what an effective framework should look like. It will focus not just on the employer and employee, but also on external actors, such as governments, the insurance industry and the security sector. All of these organisations already play a role in keeping employees safe and their actions will impact on the relative success or failure of any proposed framework.

Feedback

To reiterate, the key aim of this working paper is to prompt feedback. Your time in responding to the issues raised would be much appreciated and would make a useful contribution to the research project *Corporate Personnel Security in Emerging Markets*.

You might like to consider the following questions:

- Do you agree with the arguments and assumptions made in this working paper?
- Are there issues you feel are missing from this analysis, bearing in mind the intended focus – the legal and policy framework for duty of care and the role of personal employee responsibility?
- Do you have examples that could illustrate any of the points made or that contradict the arguments put forward?
- Do you have specific recommendations about how policy should change to help keep people safe when working for companies overseas in emerging markets? I.e. what should companies do in practice to protect their staff? What do individual employees need from their employers to be able to help take care of themselves?

Feedback should be sent to Rachel Briggs at Rachel@fpc.org.uk

[1] The Prime Minister's 2003 New Year message can be read at:
http://www.number-10.gov.uk/output/Page6904.asp

[2] The Prime Minister's 2003 New Year message can be read at:
http://www.number-10.gov.uk/output/Page6904.asp

[3] Burton Malkiel and JP Mei, *Global Bargain Hunting: The investor's guide to big profits in emerging markets*, Pengiun Books, 1998

[4] *Patterns of Global Terrorism 2001*, US State Department, May 2002 (available online at: http://www.state.gov/s/ct/rls/pgtrpt/2001/pdf/)

[5] Travel Trends: A report on the 2001 International Passenger Survey, National Statistics Office, 2002

[6] Originally, it was forecasted that growth between 2000 and 2005 would be 16.7 per cent, taking into account the economic downturn. This was then re-forecasted to take into account the impact of September 11th 2001.
Down but Not Out, press release from ABTA 02 November 2001 (http://shaftesbury.venus.co.uk/abta/news/2001/11/1135.htm)

[7] www.thebci.org

[8] For an excellent analysis of the link between reputation and value and a company's handling of crises, see Rory Knight and Deborah Pretty, *Reputation and Value: The case of corporate catastrophes*, Oxford Metrica, 2001

[9] *Strategic Priorities for British Foreign Policy*, Speech by Rt Hon Jack Straw MP, FCO Leadership Conference, 6th January 2003. This speech is available at www.fco.gov.uk

[10] See Halina Ward, *Corporate accountability in search of a treaty? Some insights from foreign direct liability*, Briefing Paper 4, RIIA, May 2002

[11] For more details about the case brought against Cape plc see Halina Ward, *Corporate accountability in search of a treaty? Some insights from foreign direct liability*, Briefing Paper 4, RIIA, May 2002. This paper raises some useful points about the challenge of holding companies to account across national borders, referring to the case against Cape plc and Thor Chemicals, both in South Africa.

[12] The International Security Management Association (ISMA) is an association of senior security executives from major business organisations located worldwide. ISMA's mission is to provide and support an international forum of selected security executives whose combined expertise will help to develop, organise, assimilate, and share knowledge within security disciplines for the ultimate purpose of enhancing professional and business standards. For more information see www.ismanet.com

[13] The report can be read at http://www.cabinet-office.gov.uk/intelligence/CM5724.pdf

[14] Wicker and August, "Working Lives in Context: Engaging the views of participant analysts", reproduced in *Person Environment Psychology: New directions and perspectives*, Walsh et al (eds.), 2000

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[15] Quoted in Rachel Briggs, *Travel Advice: Getting information to those who need it*, The Foreign Policy Centre, 2002, page 12.

[16] Lloyd Roberts coined this phrase in the seminar, "To What Extent and How Should Individual Employees be Responsible for their Own Safety When Working in Emerging Markets?", 8 October 2002, The Foreign Policy Centre

[17] Jane Nelson, *The Business of Peace: The private sector as a partner in conflict prevention and resolution*, The Prince of Wales Business Leaders' Forum, 2000

[18] For more information on the types of issues that companies need to consider when communicating travel advice to their employees, refer to Rachel Briggs, *Travel Advice: Getting information to those who need it*, The Foreign Policy Centre, 2001

[19] Quoted in a seminar on travel advice, held at The Foreign Policy Centre on 4th July 2002.

[20] Paul Barker, *Managing Risks to Employees on Overseas Assignments*, unpublished MSc dissertation for the Study of Security Management, Scarman Centre for The Study of Public Order, University of Leicester

[21] 'To What Extent and How Should Individual Employees be Responsible for their Own Safety When Working in Emerging Markets?', research seminar, 8th October 2002, The Foreign Policy Centre. See www.fpc.org.uk for an event report from the seminar.