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REPORT

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# Contracting Insecurity

Private military and security companies  
and the future of the United Nations



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# Table of Contents

|  |    |
|--|----|
| I – Introduction.....                        | 5  |
| II – New Guidelines, New Challenges.....     | 6  |
| UN use of PMSCs, 2011-2013.....              | 6  |
| Outsourcing.....                             | 6  |
| Trends in UN use of PMSCs.....               | 6  |
| Controversial companies used by the UN.....  | 7  |
| Positive steps forward.....                  | 9  |
| Transparency.....                            | 9  |
| The General Assembly.....                    | 9  |
| New guidelines.....                          | 10 |
| Failure to link PMSCs to broader shifts..... | 11 |
| New mandates.....                            | 12 |
| Increasing bunkerization.....                | 13 |
| A private security posture.....              | 14 |
| III – Regulation or confrontation?.....      | 15 |
| Mobilization against the industry.....       | 15 |
| The limits of NGO advocacy.....              | 15 |
| The limits of regulation.....                | 17 |
| IV – Conclusions and recommendations.....    | 19 |
| Bibliography.....                            | 21 |
| List of acronyms.....                        | 25 |

## **“Dangerous Partnership: Private Military and Security Companies and the UN” – Report Findings**

**Increasing use of PMSCs:** Available data on UN contracts, though incomplete, showed that the organization was giving a heavy priority to hiring private security services in a tight budget environment. But UN security officials themselves could not give an estimate of total security contracting within the UN system or a complete list of companies hired, suggesting a system that was unaccountable and out of control.

**Use of disreputable companies:** In the absence of guidelines and clear responsibility for security outsourcing, the UN hired companies well known for their misconduct, violence, and financial irregularities – and hired them repeatedly. These included G4S, the industry leader known for its violence against detainees and deported asylum seekers, and Saracen Uganda, an offshoot of the notorious mercenary firm Executive Outcomes, with links to illegal natural resources exploitation in the Democratic Republic of Congo.

**Secrecy and lack of accountability:** The report found that the UN did not have system-wide standards to hire PMSCs and had never conducted a policy review of the impact of its use of PMSCs. The Secretary-General did not mention UN use of PMSCs in any of his reports to the General Assembly, and member states had not debated the issue.

**The broader security framework:** The report placed UN use of PMSCs into the context of broader evolutions within the organization. Why did the UN need more “security?” The UN’s turn to PMSCs is a symptom of a broader crisis affecting the UN’s mission. It coincided with the establishment of increasingly “robust” peacekeeping missions, “integrated missions,” and a hardened security approach that privileges bunkerization.

**Recommendations:** The report recommended that, at a minimum, the UN should promptly devise and implement a strong vetting system for PMSCs as well as guidelines defining which services the companies should perform and how oversight and accountability are to be managed. It also urged the UN to reassess the entire question of security and its partnership with these companies. Does the UN want to be linked to these companies at all? Do they really increase security?

# I – Introduction

The UN's use of private military and security companies (PMSCs) is not a technical issue – it is a deeply political one. Since the publication of “Dangerous Partnership” by the Global Policy Forum and the Rosa Luxemburg Stiftung – New York Office in July 2012,<sup>1</sup> the UN has taken steps to improve the selection and oversight of these companies and to make its practices more transparent. While positive, these efforts have tended to focus on technical issues, such as the selection process and the definition of which services PMSCs can perform. There has been little reflection on the reasons behind the need for more security, the influence of PMSCs on UN security policies, or their potential impact on the perception of the organization by local populations.

The use of PMSCs has important ramifications for the activities, mandate, and legitimacy of the UN. Ultimately, the question behind the UN's use of PMSCs is what the organization is today and what it might become.

“Dangerous Partnership” was widely picked up in the media and created a stir within the organization. This report revealed that the UN was increasingly relying on PMSCs for a wide range of services and had no adequate process to vet these companies. It exposed UN secretiveness around this practice and urged a healthy debate within the organization and among member states.

The UN's focus on oversight and regulation reflects the general approach to PMSCs. Both governments and civil society have often addressed the private military and security industry through the lens of regulation. Some have advocated for binding regulation at the national and international level while others have preferred to promote voluntary instruments. They have given less attention to these companies' profit-base – such as the operation of private prisons – and their role in making democratic societies less averse to war. In an internal memo, the British Ministry of Defence has highlighted that “neither the media nor the public in the West appears to identify with contractors in the way they do with their military personnel. Thus casualties from within the contractorised force are more acceptable in pursuit of military ends than those among our own forces.”<sup>2</sup> In other words, PMSCs can make war more palatable to the public.

While regulatory efforts may bring welcome transparency and accountability to the private military and security industry, they also run the risk of legitimizing and normalizing it. In this context, civil society mobilization can be ambiguous, especially when it takes the form of engagement with and support for soft regulatory approaches, such as the voluntary International Code of Conduct for Private Security Providers (ICoC).

Regulation is not enough. It may even be counter-productive. There is a need for deeper reflection and debate on the impact of the growing privatization of security, the effect of PMSCs on the democratic control of the use of force, and the type of policies that they make possible. At the UN, this debate must address whether PMSCs threaten the mandate and principles of the organization, how they contribute to the militarization and securitization of UN missions, and whether they can negatively affect the organization's image.

The first section of this report provides an update on recent contracting data and trends in UN security outsourcing. It examines how the UN has tackled the issues raised by its use of PMSCs – through more reporting and new guidelines – and the limitations of this approach. The report places UN use of PMSCs within the broader context of evolving mandates and changing security policies and raises questions about the direction the organization is taking.

Many citizens have become aware that PMSC operate not only in war zones, but also “at home.” The second section gives an overview of recent public mobilization around PMSCs and how the understanding of PMSCs' role and activities is shifting. It examines different attempts at regulation and civil society support for these initiatives. The report highlights the risks associated with civil society support for “soft” regulatory approaches that can legitimize the industry.

The UN, member states, and civil society must adopt a more ambitious and radical approach to PMSCs. This report's final section identifies alternatives to PMSCs and potential paths for future mobilization. The issues raised by PMSCs cannot be dealt with through regulation alone. They demand an interrogation of the power dynamics and interests behind the private military and security industry.

<sup>1</sup> Pingeot (2012).

<sup>2</sup> UK Ministry of Defence (2012), p.7.



## II – New Guidelines, New Challenges

### UN use of PMSCs, 2011-2013

#### Outsourcing

The UN continues to outsource its security to private firms. In 2011, the organization reported system-wide total expenses of \$113.8 million on “security services”.<sup>3</sup> Although the UN’s published data are not an exact reflection of reality,<sup>4</sup> they are helpful for tracking trends over the years. In 2010, recorded spending on “security services” was \$75.7 million, and in 2009 it was \$44.5 million. This suggests a rapid increase in the use of security services in the past few years.

The most recent published data seem to indicate a drop in security contracts, with \$90.9 million recorded spending on “Security and Safety Services and Public Order.”<sup>5</sup> However, the methodology for the 2012 report is different from previous years and now identifies two separate items related to security, “Security and Safety Services and Public Order” and “Security, Safety, Law Enforcement Equipment, including Demining and PPE.”<sup>6</sup> Spending for these two items was \$124.3 million in 2012. The shift in recording methodology, in addition to the incomplete nature of the records, raise questions about the UN’s ability to get a clear sense of the evolution of its practices over the long term.

The UN’s shift to outsourced security has had a concrete effect in a number of cases. In July 2013, the UN Mission in South Sudan (UNMISS) began “a phased hand-over of its security” by transferring protection of its premises to the private company Warrior Security. UNMISS had previously employed 800 individual contractors for security, who they intended to integrate into the Warrior Security Guard

Force. According to a press release from UNMISS, these new security arrangements reflected “the global policy of the United Nations (UN) system on the protection of UN premises.” The move was also touted as a job-creating initiative, with Warrior Security supposed to “ensure job security [...] as well as social benefits such as a pension, annual leave and medical care.” Promised improvements included a move from 12-hour to 8-hour shifts.<sup>7</sup> These assurances did not prevent the security guards hired directly by the UN under short-term contracts from going on strike when they learned of the plan.<sup>8</sup>

The UN’s interest in the services of PMSCs was also illustrated by the participation of two officers from the UN Procurement Division in the 2013 Summit of the International Stability Operations Association (ISOA).<sup>9</sup> This yearly event, organized by the industry association for US-based PMSCs, brings together “policymakers, industry leaders, implementers, and experts” from “the stabilization, humanitarian aid, and development communities,” and offers many networking opportunities to participants.<sup>10</sup> The fact that two UN officers were scheduled to speak on one of the event’s panels suggests that the UN is interested in increasing its profile as a client of the PMSC industry.

#### Trends in UN use of PMSCs

Within the UN system, the UN Development Program (UNDP) remains the largest user of security services, with \$62 million recorded spending in 2011. However, this number reflects the fact that UNDP often supports the costs of security for other UN entities, not just for its own operations. The UN High Commissioner for Refugees (UNHCR) is also an important user of private security, with \$18 million recorded spending in 2011.<sup>11</sup>

3 UN Office for Project Services (2012), p.112.

4 The item “security services” is ill-defined and the statistical reports do not include some UN entities. For a discussion of the limits of available data, see Pinget (2012).

5 UN Office for Project Services (2012), p.120.

6 PPE stands for “Personal Protective Equipment.” Previous annual statistical also included two items under the heading “safety and security” but they were not the same, with “Security services” on one hand and “Security & safety equipm., incl. PPE (personal protective equipm.)” on the other.

7 UNMISS Press Release (2013).

8 Sudan Tribune (2013).

9 ISOA website: [www.stability-operations.org/?page=AS13\\_Agenda](http://www.stability-operations.org/?page=AS13_Agenda).

10 ISOA website: [www.stability-operations.org/?page=AS13\\_Home](http://www.stability-operations.org/?page=AS13_Home).

11 UN Office for Project Services (2011), p.116.

Among peacekeeping and political missions, the UN Assistance Mission in Afghanistan (UNAMA) remains the most important user of private security services. It has signed one of the largest contracts for private security in the UN system, with IDG Security. UNAMA spent more than \$10 million on security contracts with IDG Security in 2012. The UN peacekeeping missions in the Democratic Republic of Congo (MONUSCO), Haiti (MINUSTAH), and Côte d'Ivoire (UNOCI) were also important users of security services, spending respectively \$5.9 million, \$3.4 million, and \$2.4 million on "security services" in 2012.<sup>12</sup>

The UN continues to use PMSCs for a wide range of services in addition to armed and unarmed security. The company Hart Security, for instance, has provided training for the UN mission in Iraq (UNAMI), which spent more than \$1.1 million on these services in 2012.<sup>13</sup> The UN Office for Project Services (UNOPS) similarly hired a private security company, Sabre International, for training in Iraq. UNOPS has also used the services of G4S Risk Management,<sup>14</sup> which provides "secure support services, ordnance management, risk consultancy, specialist training, and integrated solutions" to its clients.<sup>15</sup>

In addition to direct contracting of security services by the UN, PMSCs also sometimes become involved in UN operation indirectly, an area that has so far received little attention. For instance, every US police officer taking part in a UN civilian police force is in fact a PMSC employee. Until 2004, DynCorp International had an exclusive contract with the US Department of State to provide such services. The contract has since been split with additional companies, and the company Pacific Architects and Engineers (PAE) is now contributing civilian police personnel to the UN missions in Haiti and Liberia. PMSCs also train forces for peacekeeping missions without directly participating in them. The US-led Global Peace Operations Initiative, designed to train peacekeeping and police troops for UN and regional missions (primarily in Africa), has been almost entirely outsourced to PMSCs. Until 2010, the contract was shared between Northrop Grumman Information Technology, Military Professional Resources Inc. (MPRI), and Blackwater. The contract was then awarded to Northrop Grumman and PAE. However indirect, the participation of PMSCs in peacekeeping activities raises questions about oversight and their potential influence on UN missions. When PMSCs and

their subcontractors perform the training of peacekeeping troops, they pass on their particular skills and professional ethos to these troops.<sup>16</sup>

## Controversial companies used by the UN

### G4S

Industry leader G4S has been making headlines for poor performance and abuses, but the UN still uses this company (and its local branches) in many locations. In 2012, several UN entities hired G4S to manage their security systems. These include the International Atomic Energy Agency (IAEA) in Austria and Pakistan and the UNDP in Chile, India, Iraq, and Somalia. The UNHCR has used G4S guards in the DRC and Kenya. Overall the UN had more than sixty contracts with G4S in 2012, for guards, "security services," "office security," security systems, consulting, mine action, cleaning, and other services, for a total of more than \$15 million.<sup>17</sup>

The UN's continued reliance on G4S is controversial. In the summer of 2012, G4S received unwanted attention when it proved incapable of fulfilling the terms of its contract to secure the Olympics in London. Originally tasked with providing more than 10,000 personnel for the Olympics, the firm admitted that it could provide fewer than 6,000, with less than a month remaining before the Games. The British Government had to mobilize military personnel to fill the gap.<sup>18</sup>

G4S had previously been in the spotlight following the death of Angolan deportee Jimmy Mubenga, who suffocated while being restrained by three G4S guards on a flight from Heathrow to Angola. An inquest into Mubenga's death condemned the systematic use of excessive force during removals and found evidence of "pervasive racism" among G4S personnel tasked with removing detainees.<sup>19</sup>

G4S contracts to run prisons in several countries have also come under scrutiny in recent months. In early 2013, a South African government report found that G4S was illegally holding inmates in isolation for up to three years and failing to provide them with life-saving medication, charges that the company denied.<sup>20</sup> In October, after a string of

12 UN Procurement Division website: [www.un.org/depts/ptd/12\\_field\\_po\\_others.htm](http://www.un.org/depts/ptd/12_field_po_others.htm).

13 Ibid.

14 UN Office for Project Services (2011), pp.310 & 316.

15 G4S website: [www.g4s.uk.com/en-GB/What%20we%20do/Services/Risk%20management%20and%20consultancy](http://www.g4s.uk.com/en-GB/What%20we%20do/Services/Risk%20management%20and%20consultancy).

16 Ostensen (2013).

17 UN Office for Project Services (2012), pp.256-322.

18 Booth/Hopkins (2012).

19 Taylor (2013).

20 Hopkins (2013a).

violent riots and stabbings and strikes by prison officers at a maximum security prison run by G4S, South African authorities announced they would take over the management of the facility. The government declared that “the contractor [had] lost effective control of the facility.”<sup>21</sup> G4S has also come under scrutiny for its management of prison facilities in the UK, where the Inspectorate of Prisons found that the company was failing to provide basic health care and sanitation to prisoners.<sup>22</sup> In 2012, a British high court judge found that the unlawful use of force and restraint techniques against children had been widespread in child prisons and “secure training centers” operated by G4S and Serco between 1998 and 2008.<sup>23</sup> G4S also manages security systems at the controversial Ofer Prison in the Occupied Palestinian Territories.<sup>24</sup>

### Askar Security Services

The UN no longer appears to be using Saracen Uganda, a company linked to Ugandan President Yoweri Museveni’s brother, General Salim Saleh, and implicated in the illegal exploitation of natural resources in the DRC by a 2002 Security Council report.<sup>25</sup> However, it has become involved with another controversial Ugandan company.

In October 2012, the UN peacekeeping mission in the DRC, MONUSCO, hired Askar Security Services for unarmed security services at its premises in Kampala and Entebbe, Uganda. In addition to a one-year contract worth \$250,000,<sup>26</sup> records also show a \$300,000 purchase order from MONUSCO with Askar in October 2013.<sup>27</sup>

Kellen Kayonga, a sister-in-law of General Saleh, heads Askar Security Services. The company has been involved in the exploitation of Ugandans sent to work on security contracts in Iraq.<sup>28</sup> Since 2005, Askar has recruited manpower on behalf of companies providing security services in Iraq, in particular US-based Special Operations Consulting (SOC, now renamed SOC-SMG). Ugandan guards sent to Iraq have complained of exploitative practices. Although their pay was initially high, it eventually fell, reaching \$400 a month for a 12-hour day and a six-day week in late 2011. Some of them had to work 15 hours a day and were denied

(unpaid) holidays back home. According to one Ugandan guard interviewed in 2007, Kellen Kayonga “captures our passports and keeps them in her custody in order for us not to seek other opportunities with other companies. Kellen has also been charging some of us, who travel, replacement flight costs.”<sup>29</sup>

Despite this record, Askar’s business has prospered. When the first cases of exploitation of Ugandan employees in Iraq surfaced in 2008, the Ugandan government conducted a limited cleanup operation that merely strengthened the position of the more powerful companies – those closest to Museveni.<sup>30</sup> Askar has since expanded its activities to the Afghanistan market, providing Ugandan employees to protect US convoys and bases, mainly in the southern provinces of Helmand and Kandahar.<sup>31</sup>

### Delta Protection

The UN peacekeeping mission in the DRC, MONUSCO, has been using the company Delta Protection for security services since 2011. From 2012 to 2013 MONUSCO hired almost 500 guards from Delta Protection for security in seven locations, for a total of \$6.6 million.<sup>32</sup>

Delta Protection also happens to work for the mining company Tenke Fungurume Mining (TFM), a consortium gathering US company Freeport-McMoRan Copper & Gold Inc., Canadian company Lundin Mining, and the DRC’s state mining company Gécamines. TFM is exploiting one of the world’s largest known copper-cobalt resources in the Katanga province of the DRC.<sup>33</sup>

According to reports from Congolese civil society, in the summer of 2012 guards from Delta Protection working for TFM were responsible for beating and killing a man who was crossing TFM’s property. Following the beating, the man was apparently brought to the office of Delta Protection for questioning and then transferred to a TFM clinic by a TFM ambulance before being transferred again to a hospital in the provincial capital, where he died a few days later.<sup>34</sup> A statement from Delta Protection alleged that the man had broken into the property to steal and was apprehended as he was trying to flee, and that the injuries that led to his death had not been caused by Delta Protection

21 Hopkins (2013b).

22 Reuters (2013).

23 Travis (2012).

24 Plimmer (2013).

25 UN Security Council (2002), paragraphs 102-103.

26 UN Procurement Division website: [www.un.org/depts/ptd/12\\_field\\_contract\\_others.htm](http://www.un.org/depts/ptd/12_field_contract_others.htm).

27 UN Procurement Division website: [www.un.org/depts/ptd/13\\_field\\_po\\_others.htm](http://www.un.org/depts/ptd/13_field_po_others.htm).

28 Vicky (2012).

29 Osike (2007).

30 Vicky (2012).

31 Daily Monitor (2010).

32 UN Advisory Committee on Administrative and Budgetary Questions (2012), Annex II.

33 Lundin Mining website: [www.lundinmining.com/s/TenkeFungurume.asp](http://www.lundinmining.com/s/TenkeFungurume.asp)

34 Centre pour la Justice et la Réconciliation et al. (2012).



guards. Delta Protection claimed that the man had a “swollen eye” when he was brought in for questioning, which he said was due to him falling off his bike, and the company decided to take him to the TFM clinic.<sup>35</sup> Congolese civil society organizations, however, claim that TFM and Delta Protection have sought to pay off the man’s family to prevent an autopsy and potential judicial proceedings.

Such a case requires further investigation, and the UN cannot be expected to dismiss a company on the basis of rumors. However, this case also reveals the risks that the UN runs when it becomes associated with private security companies that work for other clients (such as the mining industry) in areas where the rule of law is shaky or non-existent. In fact, in its statement, Delta Protection used its association with the UN as evidence of its good reputation, stressing that it had been hired by MONUSCO and other international organizations and had never been accused of human rights abuses.<sup>36</sup> What would be the consequence of such links if it were established that the Delta Protection guards were responsible for murder? If PMSCs use their relation with the UN as a badge of honor and then go on to commit human rights abuses, this may negatively affect the organization.

## Positive steps forward

### Transparency

Since late 2012, the UN has published an unprecedented number of documents shedding light on its use of PMSCs. For the first time, the Secretary-General presented a report to the General Assembly on the use of private security in October 2012.<sup>37</sup> The report explained the policy decisions leading to the use of armed private security, which is supposed to be a “last resort” when other possibilities (security from the host country, from another country, or from internal UN capacity) have been exhausted. It also gave an overview of the newly adopted UN guidelines on the use of armed private security. However, the report was slim on facts and numbers. It did not name any of the companies used by the UN and did not address the rise in private security contracts.

A subsequent report of the Advisory Committee on Admin-

istrative and Budgetary Questions (ACABQ), a subsidiary organ of the General Assembly, provided more details. It also showed that the UN’s knowledge of its own practices remains limited and that much more needs to be done to bring visibility to the system-wide UN use of PMSCs. The report, for instance, states that the UN system has “only one contract with a large multinational armed private security company,” namely IDG Security in Afghanistan.<sup>38</sup> However, the same report listed several contracts for armed private security with G4S and its local branches, in Cameroon, Haiti, and Kosovo. G4S, the largest private security company in the world, clearly falls under the definition of “a large multinational armed private security company.”

The list of contracts in the ACABQ report generally seems to have been compiled rather haphazardly. Although it is supposed to list contracts with “armed private security companies” at special political missions and peacekeeping missions, it also includes contracts for the “provision of explosive detection devices” and “canine services.” The ACABQ report focuses on political and peacekeeping missions and does not mention contracts for UN entities (such as the UNDP or UNHCR), so it provides a very partial view of UN practices.

Even incomplete and inaccurate, the ACABQ report provides welcome new information on the extent of UN contracting with PMSCs. It reports that in 2012 over 5000 armed private security guards were hired under UN contracts (for political and peacekeeping missions). It also shows that contracts for armed private security for those missions are meant to increase from about \$31 million in 2012-2013 to about \$41 million in 2013-2014, with a large portion of this increase linked to new contracts for security in Somalia.<sup>39</sup>

### The General Assembly

Until 2013, UN member states had never openly debated the organization’s use of PMSCs. Although the Secretariat’s secretiveness around the issue was partly to blame for this silence, it also amounted to a “don’t ask, don’t tell” policy, illustrating many states’ willingness to look the other way as long as the UN carried out the mandates it received.

Following the reports from the Secretary-General and the ACABQ, the Fifth Committee of the General Assembly,

35 Delta Protection (2012).

36 Ibid.

37 UN Secretary-General (2012b).

38 UN Advisory Committee on Administrative and Budgetary Questions (2012), paragraph 23.

39 Ibid., pp.10-15.

which deals with administrative and budgetary matters, took up the issue in early 2013. According to delegates who participated in the debates, member states asked the Secretariat and the Department of Safety and Security many questions on UN use of PMSCs. The G-77, in particular, took the lead in expressing concerns about this practice.<sup>40</sup>

In its recommendations to the General Assembly, the Fifth Committee stated that armed private security “should be used as a last resort”<sup>41</sup> and stressed “the importance of ensuring that all measures are undertaken to avoid legal and reputational risks for the Organization.”<sup>42</sup> It requested the Secretary-General to widely disseminate the newly established policy on UN use of armed private security in all UN languages and “to continue to report to the General Assembly on the use of armed security services from private security companies.”<sup>43</sup> The Committee clearly expressed the need for more information on this issue and also requested the Secretary-General “to provide clarification on the operational criteria for when the use of armed security services from private security companies could be appropriate for United Nations.”<sup>44</sup>

The Fifth Committee resolution is by far the clearest mandate that the UN has received from member states on the issue of PMSCs. It underlined the potential risks involved in the use of armed private security and demanded more transparency and accountability from the Secretariat. The Fifth Committee also suggested that the issue should be brought to other relevant Committees of the General Assembly.<sup>45</sup> The Third Committee, which deals with social, humanitarian, and cultural affairs, may be best placed to examine this issue.

As part of an ongoing study on the UN use of PMSCs, which will be presented to the General Assembly in 2014,<sup>46</sup> the UN Working Group on the Use of Mercenaries convened an expert panel at UN headquarters in New York in July 2013.<sup>47</sup> The event looked into the recently adopted guidelines on UN use of armed private security and the use of PMSCs by peacekeeping missions. It was attended by delegates of about fifty member states and representatives from civil society, constituting the highest-profile event on this issue to date. However, the UN Department of Safety and Security

refused to participate in the panel, raising questions about its willingness to allow scrutiny of UN security policies, even by member states.

In a subsequent press conference, members of the Working Group elaborated on the importance of this study. They stressed the inherent risks associated with the use of PMSCs, as acknowledged by the UN’s “last resort” policy, and the potential negative effect on the image and effectiveness of the organization in the field. They also stated that the UN should serve as a model for member states and other organizations in its use of PMSCs.<sup>48</sup>

## New guidelines

In late 2012, the UN Department of Safety and Security published new guidelines on the use of armed private security companies. These were the result of consultations started in August 2011 by a working group of the UN Inter-Agency Security Management Network, which included representatives from relevant departments, funds, and programs, as well as the two UN staff federations. The new guidelines are the first attempt to introduce standardized rules for the use of armed security services within the UN system. Although they bring some transparency and accountability to UN practices, they are limited and overly rely on self-reporting from PMSCs. The guidelines also raise concerns that some controversial services – such as the use of armed private security for convoy protection – may become normalized.

The guidelines introduce a coherence that was seriously lacking in the UN system, where each department, fund, and program had adopted its own position on the use of PMSCs and did not necessarily communicate its activities with other UN entities. The new guidelines remedy this confusion by establishing a clear chain of accountability, in which the use of armed private security must be approved by the Under-Secretary General for Safety and Security. The guidelines increase transparency and visibility system-wide by requiring all UN agencies, funds, and programs to be notified when any UN entity hires armed security services.<sup>49</sup> With such standards in place, in the future it will be difficult for the Secretariat to contend that it has no information on the use of armed private security in the field.

40 Author interviews with UN delegates in March-April 2013.

41 UN Fifth Committee (2013), paragraph V.11.

42 Ibid, paragraph V.12.

43 Ibid, paragraph V.13.

44 Ibid, paragraph V.17.

45 Ibid, paragraphs V.11-16.

46 UN Working Group website: [www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/StudyOnPMSC.aspx](http://www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/StudyOnPMSC.aspx).

47 Disclosure: the author was invited to speak on the panel.

48 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination (2013b).

49 UN Department of Safety and Security (2012a), paragraph E.22.

The guidelines also seem to be sensitive to the controversial history of PMSC activities and the risks they present. They require an evaluation of the potential negative impacts of the use of armed private security, including consideration of host country and local community acceptance and the local history of negative impacts.<sup>50</sup>

However, the level of monitoring and oversight of hired PMSCs mandated by the guidelines is insufficient. The guidelines' process relies on self-reporting from hired PMSCs and adopts a hands-off approach to screening and training that does not seem adequate to avoid companies with dubious records or potential incidents that could tarnish the image of the organization. Although hired PMSCs are required to conduct screening and training of all personnel who are to be employed for the UN contract, the supervision of these processes by the UN itself is limited. The guidelines merely require the company to confirm in writing that it has conducted screening and to certify that personnel have undergone training according to the guidelines' standards.<sup>51</sup> This lax oversight presents potential risks for the UN in the event that the hired PMSC does not adequately perform these tasks.

The screening process, focusing on the record of individual employees but not on the past conduct and organizational history of the company, is too limited. For instance, the guidelines specify that the UN entity using a PMSC is to review the list of personnel to be employed against relevant resolutions of the Security Council (for potential sanctions) and other internal sources of information.<sup>52</sup> While this oversight process is important, it does not cover many relevant individuals involved in a company, for instance its owners or board members.

Would these guidelines have prevented the hiring of a company like Saracen Uganda? They almost certainly would have failed to do so, since the problem with Saracen was linked to the company's past conduct and one of its owners, General Saleh, and not necessarily to individual employees. Even if the screening process were improved, a case like Saracen Uganda would not fall under these guidelines, since the company was hired for unarmed private security. Ultimately, the guidelines are limited, since they only address armed private security, whereas the UN uses private military and security companies for a wide range of services, including unarmed security, risk assessment, security training, logistical support, and demining.

The guidelines focus on technical issues and do not address how the use of PMSCs may influence UN security policy, UN mandates, or the image of the organization. They fail to consider that the concept of "last resort," which makes UN use of armed private security possible only when other options have been exhausted, is not just a policy issue but a deeply political one. Who decides that the option of in-house UN security capacity has been "exhausted" and on which criteria?

The guidelines also raise concerns that the use of PMSCs will become normalized and that the UN will increasingly use these services. For example, although the guidelines authorize the use of armed private security for mobile protection, this is a controversial practice that many humanitarian workers have criticized.<sup>53</sup> Highly visible armed men guarding UN convoys present their own risks, and some have questioned whether such measures may increase insecurity rather than making the UN safer. Some of the major incidents involving private security companies have occurred around convoys.<sup>54</sup>

## Failure to link PMSCs to broader shifts

Current UN debates have largely avoided reflection on the reasons behind the need for heightened security measures and how they are part of a broader evolution in UN mandates and new security policies. What type of policies do PMSCs enable, and why have they apparently become so necessary in recent years? The UN's use of PMSCs is a symptom of evolving mandates that send and keep the organization in high-risk places where it may not have gone in the past, leading to subsequent "bunkerization" measures that protect UN staff and premises behind fortified compounds guarded by armed men.<sup>55</sup>

50 Ibid, paragraph D.19.b.

51 Ibid, paragraph 27-33 and 38-41; UN Department of Safety and Security (2012b), paragraph 4.19.

52 UN Department of Safety and Security (2012a), paragraph F.33.

53 See below for more on this issue.

54 The Nissour Square incident, where Blackwater employees opened fire on Iraqi civilians while clearing the way for a convoy of US State Department vehicles, killing 17, is the best-known example.

55 For a discussion of evolving UN mandates and security policies, also see Pingeot (2012), pp.36-38.

## New mandates

The Secretary-General's own reports on the safety and security of UN staff and premises make the link between the increased need for security and new mandates given to the UN by member states. In his 2012 report on armed private security, he notes as part of the "background" that the UN is increasingly facing demands from member states to carry out mandates and programs in high-risk environments.<sup>56</sup> Another report similarly states that UN operations are being deployed in more dangerous places, following member states' mandates, leading to more specific targeted attacks on UN personnel and premises.<sup>57</sup> Following the May 2013 attack against the UN compound in Mogadishu, the UN Under-Secretary General for Safety and Security, Kevin Kennedy, acknowledged in an interview that "the UN does continue to work in areas that we probably would not have worked in 10 [or] 15 years ago."<sup>58</sup>

In recent years UN agencies, under pressure from Western donors, have increased their presence in situations where they may not be prepared to deal with high insecurity levels.<sup>59</sup> At a time when many UN entities rely on "extra-budgetary" resources to function and face constant pressure to have a distinct mandate and to be visible, they are often forced to follow donor preferences rather than their own priorities.<sup>60</sup> This can mean deploying to high-risk areas that are relevant to donors' interests but where UN staff may not be welcome.

These new mandates have not only made it more likely that the UN will deploy to and stay in dangerous situations. They have also affected how the organization carries out its mission. Increasingly, UN missions are mandated to "integrate" their political, peacekeeping, and humanitarian components to support peace-building and state-building efforts. The move to "integrated" missions has changed the profile of the UN, in particular in situations where the organization, tasked with a peace-building agenda mandated by member states and donors, has ended up supporting governments, peace agreements, and elections that have little credibility among the local population.

The UN's mission in Somalia has illustrated the issues and risks created by this new type of mandate. A 2011 Humanitarian Policy Group brief stressed the contradictory aspects of the UN posture in Somalia, where the organization's

political apparatus supports the Transitional Federal Government while other UN entities simultaneously strive to present themselves as neutral and impartial humanitarian actors, a contradiction that many Somalis are aware of.<sup>61</sup> The brief noted that, in this context, humanitarian action had become politicized, as assistance is used to legitimize the Transitional Federal Government. Despite criticism, member states have continued to give similar mandates to the UN. In March 2013, the UN Security Council mandated a new peace-building mission in Somalia and required that all UN functions be integrated under one umbrella.<sup>62</sup>

NGOs have often been critical of the move to integrated missions, which affects them as it tends to identify their own activities with those of the UN. The organization InterAction, which gathers more than 180 US-based NGOs working worldwide, openly advocated against the push for integration in Somalia. As the Security Council was debating integration, a press release co-authored by InterAction and other NGO consortia stressed that integration may increase the risk of targeted attacks on aid workers and raised concerns that the integration of political and humanitarian missions could mean that political motives would dictate aid decisions.<sup>63</sup> According to InterAction Vice President Joel Charny, "the United States, Britain, and France [...] were driving the move towards structural integration [and] ignored the advice of the Secretary-General that they handpicked."<sup>64</sup>

Médecins Sans Frontières (Doctors Without Borders, MSF), which is well-known for its strong principles of neutrality and impartiality, also spoke out against integration in Somalia. According to MSF Secretary-General Jerome Oberreit, "as we've seen previously in Somalia, and in places like Afghanistan, Iraq, Sierra Leone, and Angola, when military stabilization or peacekeeping efforts integrate humanitarian aid as a tool to advance political and security objectives, aid actors, including health workers, are invariably delegitimized."<sup>65</sup> MSF has voiced similar criticism of the UN integrated mission in the DRC, whose mandate to "help, protect and fight" effectively makes the UN a party to the conflict.<sup>66</sup>

It is in this context that attacks against the UN, and NGOs in the field more generally, have increased. According to the Secretary-General, "respect for the United Nations system personnel, including those carrying out humanitarian man-

56 UN Secretary-General (2012b), paragraph 3.

57 UN Secretary-General (2012a), paragraphs 67-68.

58 Lynch (2013).

59 Bruderlein/Gassman (2006).

60 Off-the-record author interviews.

61 Humanitarian Policy Group (2011), p.5.

62 UN Security Council (2013).

63 InterAction/VOICE/ICVA (2013).

64 Labbé (2013).

65 Médecins Sans Frontières (2013).

66 Le Phare (2013).



dates, has eroded among opportunistic groups, rival militias and violent extremist entities.”<sup>67</sup> But the targeting of UN activities cannot be dismissed as the sole result of opportunistic criminal groups and “irrational” insurgents. It has also brought to light difficult questions about the political motives and strategies of the donors who fund these activities.<sup>68</sup> UN entities which label some of their development activities “humanitarian” (such as the UNDP and the Food and Agriculture Organization) cannot afford to ignore the political agenda of donors, who tie these activities to “good governance.”<sup>69</sup>

The contradictions and risks in the UN’s new mandates have not been lost on UN employees, who often find themselves on the front lines. In mid-2013, the ten-year anniversary of the attack against the UN compound in Baghdad became the center of tensions between the UN leadership and staff unions, at a time when the unions’ bargaining rights had been suspended. In a letter addressed to the Secretary-General, the head of the staff union in Geneva, Ian Richards, raised concerns that the UN was not taking the security of its staff seriously. The letter stressed that “as [the UN’s] role has changed and we have stepped up our operations in conflict zones and areas where we are not always welcome, the dangers posed to us, as well as to the peacekeeping personnel of troop contributing countries, have increased.” It added that “we’ve taken certain decisions that mean we’re no longer seen as neutral. The UN flag is now a target instead of a shield.”<sup>70</sup>

According to the union, the UN Secretariat and member states tend to adopt a rather fatalistic attitude to the targeting of UN employees, arguing that, given the dangerous nature of the UN’s work, a zero risk policy is not an option. This culture needs to change. As Richards points out, “if you had an airline with a plane crashing every year or so, no one would say it’s okay.”<sup>71</sup> But so far the UN has chosen to focus on hard security measures to mitigate risk and deter attacks, rather than reflecting on the motives behind these threats and whether they may be related to the organization’s own posture.

## Increasing bunkerization

Evolving mandates have changed the security posture of the UN, leading to growing securitization and “bunkerization” of UN missions. Member states have played a key role in promoting this shift. According to Stuart Groves, a former Chief Security Coordinator at the Office of the High Commissioner for Human Rights who was involved in the creation of the UN guidelines on armed private security, it was member states’ influence on the UN’s humanitarian organizations and the UN Department of Safety and Security that “led to a major shift in United Nations policy from ‘not when to leave, but how to stay.’” According to Groves, this new system “was imposed on security officers from above, and created new security needs that Member States should be aware of when mandating United Nations operations.”<sup>72</sup>

The shift from “when to leave” to “how to stay” has led the UN to rely increasingly on hard security measures designed to mitigate risks and deter attacks, rather than on acceptance by local communities. This posture is clear in the guidelines for the use of armed private security, which specify that armed guards can “present a visible deterrent to deter hostile elements from interrupting the movement of a convoy”<sup>73</sup> and note that “the use of armed security personnel is a security risk management measure that provides [...] a visible deterrent to potential attackers (raising their perceived risk from targeting the protected target).”<sup>74</sup>

This defensive posture is also obvious in the UN’s field-security training process, which stresses that UN employees, and aid workers in general, face constant threats from ill-intentioned and irrational enemies. In response, it encourages risk-aversion and isolation. The UN’s “Basic Security in the Field” CD-ROM, for instance, lays out a series of scenarios that UN staff should avoid, including “check[ing] the area around the office and your residential areas on foot” and “try[ing] food from local vendors.”<sup>75</sup>

For some, these types of policies raise serious questions about the perception of the UN by local populations as it moves further away from the “acceptance” model. Humanitarian workers in the DRC and Afghanistan, for instance, have criticized the UN’s systematic reliance on armed escorts, which used to be used only as a last resort but have

67 UN Secretary-General (2012a), paragraphs 67-68.

68 Bruderlein/Gassman (2006), p.72.

69 Ibid, p.66.

70 Richards (2013a).

71 Interview with author, October 7, 2013.

72 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination (2013a), paragraph 23.

73 UN Department of Safety and Security (2012a), paragraph C.11.

74 Ibid, paragraph C.16.

75 Duffield (2012).



now become the norm.<sup>76</sup> Researchers have pointed out that relying on security policies that privilege bunkerization and deterrence is likely to cause local populations to see the UN more negatively.<sup>77</sup>

A researcher studying the bunkerization of the UN in Sudan, for instance, noted that the high-level of fortification and militarization of the UN Mission in Sudan (UNMIS) compound in Khartoum – with razor wire, watchtowers, and armed guards – seemed out of place in a relatively safe city where crime levels are historically low.<sup>78</sup> The researcher stressed that the fortified aid compound in urban settings, reminiscent of elite gated communities, raises questions about the perception of local populations and aid beneficiaries that UN missions are supposed to empower and help.<sup>79</sup>

It would be foolish to argue for an “open UN” policy when the organization is the target of attacks and many UN employees have been killed. But the alternative that is currently being implemented and consolidated is equally concerning. Is the future of the UN to be perfectly safe but perfectly bunkerized, with UN employees rarely if ever coming into contact with the populations they are supposed to serve and empower? Will armed men come to represent and symbolize the organization in the eyes of local populations?

The use of PMSCs also tends to reinforce UN employees’ concerns that their safety is not being taken seriously and that the UN leadership and member states are cutting corners. Both UN staff and the UN Working Group on the Use of Mercenaries have pointed out that contractors are not parts and parcel of UN training and UN culture.<sup>81</sup> According to the president of the staff union for the International Criminal Tribunal for the former Yugoslavia, Rick Cottam, people feel much more comfortable being protected by their own colleagues rather than contractors, especially in post-conflict situations where the former allegiances of these individuals can be problematic and where “perceptions are crucial in building the trust of local populations in the United Nations.”<sup>82</sup> Ian Richards has similarly questioned how the use of PMSCs may impact the perception of the UN by local populations.<sup>83</sup>

The UN’s association with the private military and security industry at a time when controversies surrounding PMSC activities have come to light raises questions about the image and credibility of the organization. Should the UN embrace an industry that thrives on the securitization of society, the militarization of conflicts, surveillance, and repressive immigration policies? As public mobilization against PMSCs grows, is the UN going to end up on the wrong side of this issue?

## A private security posture

PMSCs are central to the evolution of the UN’s security posture. They provide the guards, the armored vehicles, the checkpoints, the sensors, and the entire apparatus that makes a bunker approach possible. And when the UN uses these companies for intelligence analysis, risk assessment, and training, it lets them affect its own security policies. As was pointed out during the UN Working Group on the Use of Mercenaries panel, PMSCs approach security intending to continue selling their services. Therefore, they tend to privilege short-term measures that deal with specific threats rather than defusing long-term threats. They may also create new threats through their mere presence. This can influence strategic planning in UN missions and ultimately determine what activities they carry and how.<sup>80</sup>

76 Glad (2012), p.10.

77 Bruderlein/Gassman (2006), p.82.

78 Duffield (2012), p.30.

79 Ibid, p.32.

80 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impending the Exercise of the Right of Peoples to Self-Determination (2013a), paragraph 25.

81 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impending the Exercise of the Right of Peoples to Self-Determination (2013b).

82 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impending the Exercise of the Right of Peoples to Self-Determination (2013a), paragraph 19.

83 Richards (2013b).

## III – Regulation or confrontation?

### Mobilization against the industry

In the last few years, the profile of PMSCs in the public eyes has shifted. Although they were initially associated with the wars in Iraq and Afghanistan, their activities “at home” have become increasingly visible to citizens in the US and Europe. The visibility of the G4S fiasco during the London Olympics, for instance, brought attention to the activities of the company in the UK and galvanized mobilization against its bid for more contracts with the British government.<sup>84</sup>

The link between the private military and security industry and the surveillance industry has become clearer during the ongoing NSA scandal. The fact that whistle-blower Edward Snowden was not a NSA employee but a contractor prompted public inquiries into why 70% of the US budget for national intelligence was now allocated to private firms.<sup>85</sup> People increasingly make the link between the privatization of military functions and the privatization of the surveillance and intelligence apparatus.

Several cases of private security firms spying on activists have come to light in recent years. In early 2013, a Swiss court ruled that Nestlé and Swiss security company Securitas AG had to compensate activists from Attac following revelations that a Securitas employee had infiltrated the group on behalf of Nestlé in 2003.<sup>86</sup> Other recent examples of private surveillance include a security firm spying on environmental activists on behalf of three large British energy companies<sup>87</sup> and a security contractor monitoring activist groups for Pennsylvania’s Department of Homeland Security. The “Institute of Terrorism Research and Response” (ITRR), which defines itself as “an American and Israeli nonprofit corporation created to help organizations succeed and prosper in a world threatened by terrorism,”<sup>88</sup>

was hired by Pennsylvania’s DHS to produce bi-weekly intelligence briefings that focused equally on worldwide “jihadist” communications and trainings and nationwide social justice organizing and protests. Targets included anti-fracking activists and anti-war demonstrators. The briefings were distributed to 800 federal, local, and state law enforcement agencies, as well as to “relevant stakeholders” such as local businesses.<sup>89</sup>

Companies that provide “conventional” security services have branched out into surveillance. UK-based Saladin Security, a company which provides services ranging from maritime security to close protection to security at oil and gas exploitation sites, also advertises its surveillance services on its website. The company states that “Saladin staff have many years of experience in covertly following surveillance subjects to obtain information on their movements, activities and contacts.”<sup>90</sup> Saladin used to be UN contractor.<sup>91</sup>

### The limits of NGO advocacy

Since the beginning of the Iraq war, NGOs have mobilized through reports and advocacy campaigns to denounce private contractors’ lack of accountability, their violations of human rights, and the potential for further abuses. These campaigns have involved a rather small number of organizations<sup>92</sup> and were never particularly widespread, as many NGOs acknowledged the difficulty of mobilizing public opinion on this issue. Rather than building public mobilization campaigns, NGOs have often chosen to focus their advocacy efforts around regulatory initiatives for the private military and security industry, with mixed results.

84 Including a campaign against the privatization of housing for asylum seekers in Yorkshire. See for instance: <http://notog4s.blogspot.fr/>.

85 Shorrock (2013).

86 Shotter/Lucas (2013).

87 Evans/Lewis (2011).

88 ITRR website: [www.terrorresponse.org/index.php?option=com\\_content&view=category&id=30&layout=blog&Itemid=2](http://www.terrorresponse.org/index.php?option=com_content&view=category&id=30&layout=blog&Itemid=2).

89 Quigley (2010).

90 Saladin website: [www.saladin-security.com/surveillance.php](http://www.saladin-security.com/surveillance.php).

91 It was hired by UNDP in Afghanistan in 2008. See: UN Office for Project Services (2008), p.208.

92 For a list of organizations and individuals involved in this issue, see Open Briefing (2013).

Not surprisingly, human rights NGOs have often focused on holding the industry accountable for abuses and providing legal avenues for victims to file complaints and seek remedy. NGOs have engaged with a number of regulatory initiatives, including the Montreux Document, the International Code of Conduct for Private Security Providers (ICoC), and the possibility of a UN convention brought forward by the Working Group on the Use of Mercenaries.

The Montreux Document is an initiative of the Swiss Government and the International Committee of the Red Cross. The Document reiterates international law standards applicable to PMSCs in situations of armed conflict and lays out good practices for states to implement their obligations.<sup>93</sup> It was ratified in 2008 by 17 states and now has a total of 49 participating states.<sup>94</sup> In December 2013, signatories of the Montreux Document gathered in Switzerland for the "Montreux+5" conference, to take stock of the progress over the last five years.

The ICoC is a "multi-stakeholder" initiative convened by the Swiss government, which emerged in the wake of the Montreux Document. The ICoC came to existence in 2010, when it was signed by 58 companies (it has more than 700 signatories today). The Code sets out principles and standards for the operations of "private security providers," including rules for the use of force, prohibition of human rights abuses, and commitments regarding the management and governance of companies. Following its adoption, a Temporary Steering Committee (TSC) was set up to develop a proposal for an independent governance and oversight mechanism. The TSC gathered representatives of the private military and security industry, civil society, and governments. It drafted articles of association, which were negotiated and adopted by representatives of all three constituencies in early 2013. In September 2013, the ICoC Association was officially launched and board members were appointed, with four board members for each stakeholder group.<sup>95</sup>

In parallel to this voluntary initiative, the Working Group on the Use of Mercenaries has put forward the possibility of a binding UN convention on PMSCs. In 2010, the Working Group submitted the draft of a possible convention for consideration and action by the Human Rights Council.<sup>96</sup> The Council subsequently established an open-ended in-

tergovernmental working group mandated to consider the possibility of elaborating an international regulatory framework for PMSCs. The intergovernmental working group met in the summer of 2011 and 2012, and in March 2013 the Human Rights Council decided to extend the mandate of the working group for another two years.<sup>97</sup>

NGOs are divided on the best strategy to engage with these various regulatory initiatives, particularly the ICoC. Some argue that not engaging with the ICoC would leave the field open for governments and the industry to agree on their own standards, but others raise concerns that civil society participation might legitimize a process that will reflect the preferences of governments and the industry regardless of civil society efforts. There is disagreement on whether civil society is facing a zero-sum game, where engagement with the ICoC could be construed as support for voluntary regulation over binding regulation, or whether both streams can be pursued at the same time. Many argue that, in the absence of adequate national and international regulation, the ICoC could be a step in the right direction, in particular by providing an avenue for remedy to victims of human rights abuses committed by PMSCs. All agree that voluntary regulation is not enough and should only be seen as a first step, but some raise concerns that, by participating in the ICoC process, NGOs may make it easier for governments and companies that oppose binding regulation to argue that the voluntary stream is enough.<sup>98</sup>

Serious engagement with a multi-stakeholder initiative such as the ICoC is time and energy-consuming, as NGOs have to closely follow the process and remain up to date in order to be able to adopt an effective advocacy and negotiation strategy. As organizations become focused on the process and its relevant but technical details, such as the language of a particular paragraph, they can sometimes lose sight of larger issues. Time spent by civil society organizations following the Code process and advocating within the framework of the Code is arguably time not spent doing critical work on PMSCs. In addition, the multi-stakeholder character of the Code encourages cooperation and partnership rather than confrontation, which can make it less likely that NGOs will speak out against the practices of governments and PMSCs with whom they are negotiating.

UK-based War on Want has been one of the most vocal critics of the ICoC. In a September 2013 press release,

93 Montreux Document website: [www.eda.admin.ch/eda/en/home/topics/intla/humlaw/pse/psechi.html](http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/pse/psechi.html).

94 For a list of states, see [www.eda.admin.ch/eda/en/home/topics/intla/humlaw/pse/parsta.html](http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/pse/parsta.html).

95 Association of the ICoC website: [www.icoca.ch/board-of-directors.html](http://www.icoca.ch/board-of-directors.html).

96 UN General Assembly (2010).

97 UN Working Group website: [www.ohchr.org/EN/HRBodies/HRC/WGMilitary/Pages/OEIWGMilitaryIndex.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGMilitary/Pages/OEIWGMilitaryIndex.aspx).

98 The author was involved in civil society discussions ahead of the drafting conference for the ICoC Articles of Association in early 2013.

the organization warned “that the code will be used by companies to legitimize the industry and by governments to sidestep proper controls.”<sup>99</sup> War on Want is part of the “Control PMSC” group,<sup>100</sup> a loose coalition gathering more than twenty civil society organizations from North and South America, Europe, and Iraq,<sup>101</sup> which supports binding international and national regulation of PMSCs and advocates for effective avenues of redress and reparations for victims.<sup>102</sup> The coalition has supported the work of the UN Working Group on the Use of Mercenaries on a binding international convention for PMSCs, but several members have also engaged with the ICoC process.

The four civil society members of the ICoC’s Association board are representatives from organizations that have a strong history of work on corporate accountability. These include UK-based Rights and Accountability in Development (RAID), the International Corporate Accountability Roundtable (a coalition of civil society organizations advocating for corporate accountability), Indepaz of Colombia and Lumière Synergie Développement of Senegal.<sup>103</sup> But these organizations are facing difficult odds in a process that is clearly dominated by the private military and security industry, whose position is supported by powerful governments.

## The limits of regulation

Even if the International Code of Conduct’s framework was to prove entirely responsive to civil society demands, it remains based on voluntary and largely unenforceable commitments that do not seem adequate to protect human rights, particularly in a context where governments worldwide have consistently failed to oversee and regulate the activities of companies based on their territory. While the text of the Code itself does a good job of defining standards for the responsibility, accountability, and oversight of PMSCs, it remains a voluntary initiative which envisions termination of membership as the ultimate sanction for non-compliance and which would not apply to companies

that do not want to join. This framework is not equipped to deal with serious human rights violations, such as murder and torture.

After more than three years of negotiations, the ICoC remains an unfinished process that allows companies to join without providing the monitoring and oversight that would make the ICoC seal credible. In the current Articles of Association, much is left to the Board of Directors to decide at a later date. Procedures for oversight – including external monitoring, reporting, and a process to address alleged violations of the Code – and a complaints process for third parties are meant to be developed by the board.<sup>104</sup> The fact that the ICoC leaves so many of these key issues to be decided by the Board in the future reflects the lack of agreement among “stakeholders.” Can such agreement, if it was not reached at the drafting convention, be found easily and in a timely manner in the near future, or will this lead to the watering down of original commitments?

The ICoC has created a situation in which, for the past three years, PMSCs have been able to use their affiliation with the ICoC as a seal of approval without any form of oversight in return. Given the lack of agreement on key issues such as certification, reporting, and third party complaints, this situation could go on for an indefinite period, effectively giving PMSCs a free ride. As former Chair of the UN Working Group on the Use of Mercenaries José Luis Gomez del Prado pointed out, “would it not have been more logical to have developed the oversight mechanisms first before opening the Code for signature?”<sup>105</sup> The ICoC, if it fails to deliver on its original promises, will have only served to stall more stringent regulation.

The Convention currently being discussed at the UN relies on binding international regulation rather than voluntary processes. Whereas the ICoC puts the onus on PMSCs to follow best practices and standards, the draft convention stresses the responsibility of states for the activities of PMSCs registered or operating in their jurisdiction, whether or not these entities are contracted by the states.<sup>106</sup>

The possibility of such a Convention has divided member states. According to some, there is no need for a new regulatory instrument to address PMSCs. In the past two sessions of the open-ended intergovernmental working group, the European Union has stressed that there were other ways to address accountability and oversight of PMSCs: the Montreux Document, the ICoC, and the UN’s Guiding Prin-

99 War on Want (2013).

100 Disclosure: Global Policy Forum is a member of “Control PMSC.”

101 For a list of members, see: <http://controlpmsc.org/list-of-members/>.

102 See the Coalition’s declaration: <http://controlpmsc.org/declaration-on-private-military-and-security-companies/>.

103 Association of the ICoC website: [www.icoca.ch/the-board-of-directors.html](http://www.icoca.ch/the-board-of-directors.html).

104 International Code of Conduct for Private Security Providers’ Association (2013), articles 12.2 and 13.2.

105 Gomez del Prado, p.40.

106 UN General Assembly (2010), Annex, article 4.

ciples on Business and Human Rights framework. The UK has similarly stated that it considered the ICoC as the best way to regulate PMSCs, while the US recalled its position not to support the convention on the ground that there is no international consensus on these issues.<sup>107</sup> Supporters of a binding convention under a UN umbrella have mainly hailed from the Global South and the G-77. South Africa, for instance, has noted that the existence of the Montreux Document and the ICoC do not preclude the possibility of a legally binding international instrument, which would provide victims with a mechanism for redress. China has stated that it is open to the idea of a legally binding international instrument, and Venezuela has expressed strong support for a convention.<sup>108</sup>

Although discussions on the possibility of a convention continue, they are unlikely to lead to a concrete outcome in the near future. Even if such a convention were to be established, it could suffer the same fate as the 1989 Convention against the Recruitment, Use and Training of Mercenaries, which was only ratified by 32 states (with the noticeable absence of most Western countries)<sup>109</sup> and became obsolete as soon as it was created. In light of US opposition to a new Convention, some have concluded that the initiative is not even worth pursuing.

The strategy of the private military and security industry and the states that support it is clear: on the one hand, they demonstrate willingness to cooperate by participating in non-binding dialogues and multi-stakeholder initiatives; on the other, they block attempts at more binding arrangements. In this context, NGOs' strategic decision to engage with multi-stakeholder initiatives is particularly problematic, since it can serve to legitimize this approach.

107 UN Human Rights Council (2011), paragraphs 53, 54, & 59.  
108 UN Human Rights Council (2012), paragraphs 62, 67 & 70.

109 ICRC website: [www.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp\\_viewStates=XPages\\_NORMStatesParties&xp\\_treatySelected=530](http://www.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=530).



## IV – Conclusions and recommendations

The UN has taken steps to improve transparency and accountability around its use of PMSCs, but these efforts have been limited and inadequate. The organization should improve and extend existing guidelines, explore alternatives to PMSCs, and consider the costs – both financial and otherwise – of continuing to employ PMSCs. Even with its new guidelines, the organization still runs the risk of becoming associated with disreputable companies. More importantly, the UN has so far failed to reflect on how reliance on PMSCs could influence its security policies and posture, and ultimately its mission and mandate. UN use of PMSCs is leading the organization down a path that it may be difficult to backtrack from.

As a necessary first step, the UN must improve and extend its guidelines on armed private security. All PMSCs that provide services to the UN should be appropriately screened, not just those providing armed security. At a minimum, the UN guidelines' selection, monitoring, and oversight standards should meet those of the Montreux Document, which are more stringent on a number of issues. The Montreux Document's criteria for selection, for instance, include references to the company's past conduct – the UN currently considers only the conduct of employees to be hired under a contract – and to the welfare of the company's personnel, which the UN guidelines currently ignore.<sup>110</sup> The Montreux Document also lays out criteria for accountability and effective remedy in case of human rights violations, which are also absent from the UN guidelines. The UN still lacks a channel for third parties to file complaints against contractors, a basic requirement of any human rights-compliance policy.<sup>111</sup>

The organization should also bring security functions back in-house and explore alternatives to PMSCs. The UN cites PMSC's greater availability and faster deployment time as justification for using them in place of UN staff, but as long as the organization does nothing to develop its own capacities, this is little more than a self-fulfilling prophecy. During

meetings of the Inter-Agency Security Management System to discuss the guidelines on armed private security, the UN staff associations proposed a system of "surge deployment" of UN Safety and Security officers, who would be sent from various duty stations to meet immediate needs at a particular location. The subsequent openings at these officers' original duty stations could be addressed by back-filling from the roster and through the use of short-term contracts.<sup>112</sup> According to the staff associations, UN security officers may not be keen on permanent deployment to dangerous locations, but they are often willing to be rotated there.<sup>113</sup> This system would enable UN staff to be protected by the UN's own internal security. However, the proposal was rejected, primarily on the basis of cost. To be seriously considered, such a proposal would need the support of the member states that are concerned about UN use of PMSCs.

The question of cost needs to be addressed by the UN and member states. The assertion that PMSC services tend to be cheaper than in-house options is often used to justify UN use of PMSCs. However, such arguments rarely reflect on the fact that what is gained in monetary savings is lost in administrative control and that the reason why PMSCs may be cheaper is not always because of superior efficiency but also because some underpay their employees and deny them basic benefits. In short, the UN and member states should take seriously the possibility that if something sounds too good to be true, it probably is.

Assumptions about the competitive cost of PMSC services and their efficiency are hard to prove in a context where the UN's knowledge of its own practices is incomplete and inaccurate. The supposed cost-savings enabled by the use of PMSCs and the potential trade-offs have never been systematically evaluated. Member states should request

110 UN General Assembly/UN Security Council (2008), Part Two, paragraphs A.III.4 & 13.

111 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impending the Exercise of the Right of Peoples to Self-Determination (2013b).

112 UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impending the Exercise of the Right of Peoples to Self-Determination (2013a), paragraph 20.

113 Author interview with Rick Cottam (President of the UN Staff Union-International Criminal Tribunal for the former Yugoslavia, and representative of the Coordinating Committee of International Staff Unions and Associations to the Inter-Agency Security Management Network working group on private security companies), July 31, 2013 and author interview with Ian Richards (President of the UN staff union in Geneva), October 7, 2013.

such an evaluation, for instance through the UN's internal watchdog, the Joint Inspection Unit (JIU). The Office of Internal Oversight Services (OIOS), an independent office with monitoring, inspection, evaluation, and investigation functions, could also decide to launch an internal audit of UN use of PMSCs.

The UN's shift to outsourcing mirrors changes undertaken by governments in the past 20 years that have since been found to be costly and inefficient. Many public authorities are currently bringing outsourced services back in-house.<sup>114</sup> Should the UN jump on the outsourcing bandwagon just as many are abandoning it?

These steps should not preclude a systematic reconsideration of the UN's use of PMSCs. This practice is not just a technical policy issue, rather it is a symptomatic expression of tensions around the organization's role and mandates, and it should be addressed as such. For those concerned about keeping the UN faithful to its Charter, PMSCs have the potential to open up broader issues related to the politicization of humanitarian and development assistance, the shift to increasingly militarized "peacekeeping" missions, and efforts by powerful interests to position the organization to their benefit.

NGOs and other civil society organizations should expand their focus on PMSCs beyond efforts to establish stronger regulatory structures. At a time when abuses have gone unpunished and victims have been denied remedy, civil society's focus on regulating PMSCs is understandable. Limiting advocacy to regulation, however, risks surrendering half the fight by acknowledging that these companies and their services are here to stay. Any push for better regulation must be accompanied by strong evidence-based work on the types of services that PMSCs perform, where they are deployed, whom they work for, and how they obtain contracts. More research is needed, for instance, on the connection between the private security industry and the extractive industry and on PMSCs' role in protecting sites for energy companies in Africa, Asia, and Latin America.

The private military and security industry provides an astonishing range of services, from conventional security to intelligence collection, to "humanitarian assistance." This protean nature makes the industry difficult to grasp and understand, but it also presents opportunities for mobilization. Mobilization against PMSCs offers a way to link up various struggles, bringing together opponents of the securitization of society and the privatization of government services with advocates for more humane immigration policies and more democratic oversight of foreign policy, along with many others.

These issues will not be resolved through regulation alone. The UN's use of PMSCs reflects particular policy decisions, but PMSCs themselves are also driving UN policy in troubling directions. Regulation may indeed mitigate this industry's worst abuses, but it risks normalizing a security posture and practices that run counter to the values enshrined in the UN Charter. The question should not be how to better employ PMSCs but whether the UN can afford to risk its reputation and compromise its mission through association with this industry. If we accept the outlook and logic of PMSCs then it is all too easy to accept their proponents' assertion that "there is no alternative," but if we step back and question the power dynamics and interests behind the industry then this dictum is easily challenged. Should the UN – or anyone else – put something as essential as security into the hands of a for-profit industry, much less one with the track record of the private military and security industry?

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# List of acronyms

|          |  |
|----------|--|
| ACABQ    | Advisory Committee on Administrative and Budgetary Questions |
| DRC      | Democratic Republic of the Congo                             |
| IAEA     | International Atomic Energy Agency                           |
| ICOC     | International Code of Conduct for Private Security Providers |
| ISOA     | International Stability Operations Association               |
| ITTR     | Institute of Terrorism Research and Response                 |
| JIU      | Joint Inspection Unit  |
| MINUSTAH | UN Stabilization Mission In Haiti                            |
| MONUSCO  | UN Organization Stabilization Mission in the DRC             |
| MPRI     | Military Professional Resources Inc.                         |
| MSF      | Médecins Sans Frontières                                     |
| OIOS     | Office of Internal Oversight Services                        |
| PAE      | Pacific Architects and Engineers                             |
| PMSC     | Private Military and Security Company                        |
| RAID     | Rights and Accountability in Development                     |
| TFM      | Tenke Fungurume Mining                                       |
| TSC      | Temporary Steering Committee of the ICOC                     |
| UN       | United Nations   |
| UNAMA    | UN Assistance Mission in Afghanistan                         |
| UNAMI    | UN Assistance Mission for Iraq                               |
| UNDP     | UN Development Program                                       |
| UNHCR    | UN High Commissioner for Refugees                            |
| UNMIS    | UN Mission in Sudan  |
| UNMISS   | UN Mission in the Republic of South Sudan                    |
| UNOCI    | UN Operation in Côte d'Ivoire                                |
| UNOPS    | UN Office for Project Services                               |





# Contracting Insecurity

## Private military and security companies and the future of the United Nations

*The UN is increasingly relying on private military and security companies (PMSCs) for its peacekeeping and political missions as well as its humanitarian and development activities. This has led to serious problems.*

*This report analyzes UN practices and recent developments within the organization. As the UN continues to outsource its security to private firms, it has taken steps to increase transparency and accountability around the selection and hiring of PMSCs. However, these measures have often remained technical and failed to address tough questions: why does the UN need more protection, and do PMSCs really contribute to increasing security?*

*The report calls on the UN, member states, and civil society to adopt a more ambitious and radical approach to PMSCs.*

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