

Accounting for private military and security actors

Three considerations for the New Agenda for Peace

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INTRODUCTION

Private military and security companies (PMSCs) emerged in prominence after the Cold War and their use skyrocketed following the September 11 attacks in the United States. PMSCs are now service providers of choice by governments, international organizations, humanitarian agencies, private companies and other actors in high-risk environments. Various international expert bodies as well as academics and policy experts have raised concerns regarding the impact of PMSCs in armed conflict settings and the associated increase in human rights and international humanitarian law violations (UN Human Rights Council, 2022). Others have noted the potential correlation between the use of PMSCs and increased corruption in conflict-affected countries (Transparency International Defence and Security, 2022b).

In September 2021, UN Secretary-General Antonio Guterres issued a report, titled *Our Common Agenda*, which outlined an “agenda for action” with the goal of accelerating existing agreements and turbocharging the implementation of the Sustainable Development Goals. The report called for a New Agenda for Peace “based on a better understanding of the underlying drivers and systems of influence that are sustaining conflict, a renewed effort to agree on more effective collective security responses and a meaningful set of steps to manage emerging risks” (United Nations, 2021). In July 2023, the UN Secretary-General released a policy brief with his input on the New Agenda for Peace, in which PMSCs are not mentioned, despite their increasing prevalence (United Nations, 2023).

This policy brief argues for the inclusion of PMSCs in the New Agenda for Peace as key peace and security actors given the potential risks they pose in conflict and post-conflict settings, as well as their increasing use and their gendered impact. Furthermore, it suggests ways to engage PMSCs in key peace and security processes, such as peacebuilding. To illustrate this, the brief discusses the impact of PMSCs presence and activities on civilians and their role in training national security forces. It then highlights three specific considerations for Member States to consider as part of their deliberations during the September 2024 Summit of the Future.

The authors acknowledge the complexity of defining PMSCs and their activities: not all PMSCs should be understood as creating insecurity and increasing risk as the majority of them are unarmed and often perform background security tasks such as logistics.¹ However, the outsourcing of tasks can create a dilution of control, and by hiring profit-seeking companies to deliver security-related tasks in conflict and post-conflict situations, there is an increased likelihood of abuse, particularly in the provision of security services and in the delivery of training to national military and security forces. The importance lies in recognizing the complications around PMSCs, being aware of their different activities and engagements in conflict and post-conflict situations, and accounting for them in strategies and processes.

A GROWING SIGNIFICANCE: PMSCS IN CONFLICT AND POST-CONFLICT SITUATIONS

While not a recently emerging actor, the appearance of neoliberalism as a market paradigm and a governance tool in the 1970s legitimized and heightened the use of PMSCs internationally, a trend that became more prevalent during the 1990s. Governments turned to PMSCs to cut state expenses and externalize services in neoliberal context. Furthermore, the end of the Cold War and the downsizing of military forces resulted in a surplus of military-trained personnel (Singer, 2008). PMSCs are also hired given their (claimed) ability to perform specialized tasks and operate in high-risk environments. It is thus easier for governments and more democratically accepted to

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hire – and potentially lose – private contractors instead of their own armed forces (Bautista Forcada and

Hernandez Lazaro, 2020; Eichler, 2015; Krahmann, 2017). This trend is expected to grow in the future. In 2020, the global PMSC industry was worth US\$224 billion, having grown from an estimated US\$100 billion in 2003 (Transparency International Defence and Security, 2022b). It is expected to reach US\$366.8 billion by 2028 (GlobeNewswire, 2022).

¹ For example, services and activities such as mine clearance by professional Explosive Ordnance Disposal (EOD) teams are often performed by PMSCs and do not appear to pose the risk of human right violations.

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More and more, other actors, such as the UN system,² humanitarian organizations, companies, or private individuals, are hiring PMSCs for various purposes, such as guarding and training activities. As they proliferate and expand their reach to different settings, these companies offer various

functions and services (military training to armed forces, protecting high-level officials, providing intelligence, protecting humanitarian convoys, supplying arms or, although rarely, engaging in direct combat).³

The increasing use of PMSCs, especially in armed conflict contexts, has heightened the risk of human rights violations and insecurity for civilians (UN Human Rights Council, 2022). Other studies have shown that “PMSCs can exacerbate risks to civilians in conflict” and that its presence “may also correspond with attacks on humanitarian workers and interruptions to humanitarian access” (Center for Civilians in Conflict, 2022). Experts claim that these actors have “prolonged conflicts and made them more intractable” (Working Group on the use of mercenaries, 2018).

Furthermore, PMSCs have drawn the attention of feminist scholars. With the analysis of privatized military masculinities (Higate, 2012), academics developed an understanding of how gendered violence is linked to and impacted by the privatization of security. As such, women and girls face a heightened risk of suffering sexual and gender-based violence (UN Working Group, 2021). The cases of Bosnia, Djibouti, Iraq, or Afghanistan, where cases of gender-based violence such as human trafficking, sexual slavery and rape was perpetrated by PMSC personnel arose, illustrate the need for more monitoring, oversight and accountability of PMSCs as actors actively contributing to gendered insecurities (Bautista Forcada and Hernandez Lazaro, 2020). Currently, the UN Women, Peace and Security agenda lacks a direct recognition and reference to PMSCs, which means there is a lack of international frameworks directly connecting PMSCs with gendered insecurities.

Research highlights that the lack of proper regulation amplifies the already high risks associated with the growing PMSC industry (Transparency International Defence and Security, 2022a); despite the industry expansion, regulatory efforts have struggled to keep pace (Percy, 2012; El Mquirmi, 2022). After various public scandals such as the Nisour Square massacre in Iraq in 2007, where 17 civilians were killed and 2 severely injured (Apuzzo, 2004), some UN Member States, civil society and the industry collaborated to develop legal frameworks regulating the use of PMSCs. As a result, two non-legally binding frameworks were developed: the Montreux document⁴ (2008)

2 As requested by the UN General Assembly, the Secretary-General reviewed the appropriateness of the use of private security personnel in a report (A/67/539) in 2012.

3 Examples for this include the armed conflict in the Democratic Republic of Congo (DRC) where the government is hiring Eastern European ex-soldiers to fight the March 23 Movement (M23) rebels in North Kivu (African Intelligence, 2023; Schlindwein, 2023). Another example is the presence of the Wagner Group in Central African Republic, whose contractors have worked closely with the army since 2018, and started engaging in direct combat roles in late 2020 (Ladd Serwat, 2022).

4 While the Montreux document is not a legally-binding framework, it is worth noting that there is a section (part one) that recalls legal obligations by states in regards to PMSCs that are legally binding.

targeted at states, and the International Code of Conduct for Private Security Service Providers (2010) targeting companies. While these were important steps to regulation and accountability, they alone cannot ensure the needed uniform and standardized regulation for the industry.⁵ Notably, there is an outstanding lack of recognition about the gendered effects by international frameworks that address PMSCs, such as the Montreux Document, and the International Code of Conduct for Private

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Security Service Providers. Furthermore, to complement and strengthen the above mentioned frameworks, the UN Open-ended intergovernmental

working group to elaborate the content of an international regulatory framework⁶ is currently negotiating an instrument on an international regulatory framework on the regulation, monitoring of and oversight over the activities of private military and security companies.⁷ As mentioned above, the UN system has used PMSCs for various purposes, including in peace operations. In 2012, the UN Security Management System released Guidelines on the Use of Armed Security Services from Private Security Companies⁸, complementing the UN Policy on Armed Private Security Companies. The former notes that the UN system should use PMSCs as a last resource to protect UN actors.

PMSCS AND THE NEW AGENDA FOR PEACE

In the call for a New Agenda for Peace, the UN Secretary-General suggested six potential areas to address risks and instabilities which are no longer managed effectively by the current global system of power.⁹ This call responds to the recent changes in the nature

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of conflict, and the emergence of new tools and actors, which are conflicting with the existing approaches to the prevention, management, and resolution of conflict, developed to

address the types of conflicts that became predominant in the post-Cold War era. In recognizing these changes, it is essential that the international community has a shared

⁵ See for example El Mquirimi (2022) or Center for Civilians in Conflict (2022) on the regulatory legal vacuum concerning PMSCs.

⁶ The full name is “Open-ended intergovernmental working group to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies”. More information here <https://www.ohchr.org/en/hr-bodies/hrc/pms-cs/igwg-index1>.

⁷ The rationale behind hiring PMSCs by governments, the UN and other actors is based on a binary understanding of public and private violence (Eichler, 2015). This binary logic falls short in accounting for the effects of security privatization and the interrelatedness of the public and private security forces. To achieve sustainable peace, it is essential to adopt a systematic approach that considers both private and public security actors.

⁸ Read it here: <https://www.ohchr.org/sites/default/files/Documents/Issues/Mercenaries/WG/StudyPMSC/GuidelinesOnUseOfArmedSecurityServices.pdf>

⁹ The six suggested core areas are: Reduce strategic risks (nuclear weapons, cyberwarfare, autonomous weapons); Strengthen international foresight; Reshape responses to all forms of violence; Invest in prevention and peacebuilding, including Peacebuilding Fund and Peacebuilding Commission; Support regional prevention; and Put women and girls at the center of security policy.

understanding of the prevalent role of PMSCs in conflict and post-conflict settings since the 1990s, but especially since the early 2000s. These actors are potential drivers of risk in such settings, but are barely accounted for.

Given the proliferating role of PMSCs and their gendered impact on (post-)conflict scenarios, PMSCs should be accounted for in the New Agenda for Peace as “new” actors that possibly drive insecurity, can threaten peace on multiple levels, and directly impact civilians through human violations. As such, PMSCs should be considered as key peace and security actors, as well as actors that can take part in efforts to achieve inclusive and sustainable peace. As mentioned above, there is a lack of strong sets of rules that regulate and monitor PMSCs activities as there is no international harmonized legislation. To illustrate this, two examples will be presented.

The impact of PMSCs on civilians

Civilians are the most impacted in modern armed conflicts. They account for nearly 90% of war-time casualties (United Nations, 2022) and suffer from extrajudicial killings, forced disappearances, conflict-related sexual violence, as well as damage in their infrastructure including hospitals, amongst other crimes. Some of these crimes have been committed by PMSCs. In its periodic reports to the United Nations General Assembly, the UN Working Group on the use of mercenaries has raised concerns given the increasing presence of PMSCs in conflict settings which come hand in hand with high risks in human rights abuses and war crimes (UN Human Rights Council, 2022). Furthermore, research highlights that “civilians in conflict areas where PMSCs are operating can face significant risk,” including attacks on civilian infrastructure, conflict-related sexual violence, threats and intimidation, enforced disappearances, displacement, etc. (Center for Civilians in Conflict, 2022).

PMSCs sometimes operate in settings where the rule of law and protection systems are weak and accountability is unlikely. In these contexts, civilians are vulnerable, specifically women and girls who suffer from violence and insecurity differently than men and boys. While there have been recent efforts to raise human rights and gender-sensitive governance standards in the industry through training, vetting and others, only a few companies follow these standards, leaving work to be done to raise awareness on understanding and mitigating gender-related risks (UN Working Group, 2019).

Collecting evidence about human rights violations perpetrated by PMSCs is challenging. Sensitivity surrounding these crimes and the absence of an international monitoring system imply that intergovernmental, non-governmental organizations, and local actors often risk their lives to monitor abuses perpetrated by PMSCs (Center for Civilians in Conflict, 2022). Despite these challenges, various cases and evidence have been collected of crimes perpetrated by PMSCs, including civilians killings, trafficking and sexual and gender-based violence, arbitrary detention, torture, forced evictions, and displacement (UN Human Rights Council, 2022). Well known cases include the involvement of DynCorp personnel (alongside UN peacekeepers)

in human sex trafficking of women and minors in Bosnia in the late 1990s and early 2000s (James, 2002): it was believed that over 200 nightclubs and bars were engaged in trafficking-related activity as of 2002, and that the about 25 percent of the women and girls working on these establishments were trafficked (Sperling, 2015). U.S. civilian contractors of the company DynCorp, which were part of the Stabilization Force in Bosnia and Herzegovina (SFOR), were directly involved in these crimes. A 2017 report pointed out the presence of foreign military forces (some having built military bases) in Djibouti, and contractors to perform activities such as supporting the military bases activities and guarding commercial ships (Acheson, 2021). The report claimed that the presence of foreign actors, including those of PMSCs, was “a driving factor in the sexual exploitation of women and girls in the region” (Acheson, 2021). Some experts believe these actors not only have a direct negative impact on civilians but also on prolonging conflicts and complicating negotiation and mediation efforts (UN Working Group on the use of mercenaries, 2018).

Most recently, there have been reports of human rights abuses and violations of international law linked to PMSCs activities in the Central African Republic (OHCHR, 2021), Mali (UN News, 2023), Yemen (Al Jazeera, 2020), and others. In Central African Republic, for example, UN experts have raised concerns about the role of PMSCs in intimidation and harassment, as well as human rights and international law violations (OHCHR, 2021; UN News, 2022), which include “summary executions, arbitrary detentions, torture during interrogation, enforced disappearances, forced displacement of the civilian population, indiscriminate targeting of civilian installations, violations of the right to health and growing attacks on humanitarian actors” (Center for Civilians in Conflict, 2022).

The role of PMSCs in training host nations' security forces

PMSCs fulfill various security and military services in conflict and post-conflict settings, including advising and training local security forces and personnel (DCAF, 2022). Either hired directly by the host nation or sub-contracted via an international

donor, PMSCs seek to improve the client's operational and tactical skills, the responsiveness,

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the ability to damage the ‘enemy’, as well as the expansion of combat operations (Petersohn, 2017). Thus, by training national security institutions, PMSCs play a direct role in security sector reform and influence the knowledge and behavioral attitudes transferred to local security institutions. While PMSC-provided training sometimes prepares troops for UN peacekeeping operation services, PMSCs also often train host nation security forces as a subcontract of their home state. The practice of contracting private companies is often marked by weak oversight and accountability structures, particularly in comparison to state security institutions, thus sometimes resulting in training content such as human rights standards and explicit training on gender being omitted. Similarly, PMSCs failing to exercise due diligence – for

example by not including a code of conduct and international regulatory standards in their compliance systems – carries a higher risk of human rights abuses (ICOCA, 2022).

Within this role of training, the question of *who* is implementing the training is equally fundamental as the subject of *what* is being conveyed in the activities. Since the private security sector remains deeply gendered, higher ranking individuals and trainers are usually male ex-military/police personnel who embody gendered norms and values in their discourses and practices. This interrelatedness of the public and private in terms of personnel has been labeled as the *revolving door phenomenon*, which accounts for military and strategic expertise to be valued equally across the sectors (MacLeod and Van Amstel, 2021). Hence, the instructor represented in training very often stands for whiteness and military toughness, with references to combat-related experiences marking their performance. Furthermore, oftentimes neither gender as a stand-alone subject nor gender-sensitive content are part of training courses. By training the host nations' security institutions, PMSCs implicitly influence state-building by conferring norms and values to a certain security institution, which in turn can potentially lead to more insecurity. As a result, gender-sensitive and -responsive training not only allow participants to challenge their gender-biases and discriminatory behaviors but provides means for an effective delivery of security services (Watson, 2019).

There are contemporary and historical examples of PMSCs training host nations' security forces that illustrate PMSCs' involvement in security forces training and their direct impact on the local population. The Keenie Meenie Service (KMS), a British private military company founded in 1975 by ex-British special forces, was heavily involved in training the security institutions in Sri Lanka during the long-lasting civil war. From 1984 to 1988, the KMS worked closely with a Sri Lankan paramilitary unit which was responsible for multiple war crimes against the local population (Miller, 2020). The KMS' role – and the question about the UK government's responsibility within it – has only recently attracted attention through Phil Miller's documentary and book "Keenie Meenie: The British Mercenaries Who Got Away with War Crimes" (2020). The KMS has since dissolved, but its sister company, Saladin Security, is still operating worldwide.

Another illustrative case can be found in Somalia, where various foreign governments are currently involved in the training of special units of the military and police. The United States (US) State Department is training the Danab Brigade through the contracted company *Bancroft Global Development*. The company has a negative reputation within Somalia and has been classified as a high risk implementer by other bureaus of the US State Department (Interview with anonymous, July 2022). The role of Bancroft in shaping Somalia's Special Unit – and with this, affecting the Somali National Army – has implications on how institutions are built and how security

is understood and performed. This again has direct and gendered implications for Somalia's civil society, bearing the risks of disproportionate use of violence as well as gender-based violence in the performance of securitized tasks.

CONCLUSION AND CONSIDERATIONS

As the UN system and UN Member States are developing the New Agenda for Peace, there is an opportunity to ensure that key peace and security issues and actors are given enough attention, including PMSCs. As the UN Secretary-General, amongst others, intended to address drivers of conflict and identify new actors, this policy brief argues

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for the accounting of PMSCs given their significant role as risk-bearers in the New Agenda for Peace, as well as the potential of engaging with them in efforts to build peace precisely because of their increasing role in peace and security efforts. The agenda needs to account for PMSCs as actors presenting a risk to prolong and ignite conflicts, and recognize the direct harm and gendered impact that the deployment of PMSCs can have on the local population, as well as its more and more prevalent role in various capacities.

With the goal to provide possible ideas and benchmarks for UN Member States to develop and negotiate the text of the New Agenda for Peace, the authors propose three considerations for the New Agenda for Peace:

1. Identify Private Military and Security Companies as a diverse set of actors potentially driving insecurity.

The New Agenda for Peace should recognize the growing role of PMSCs in conflict and post-conflict settings and the myriad of services that they offer to governments, the UN, humanitarian actors, businesses, amongst others. Furthermore, as actors involved in armed conflict in different capacities depending on the context, it should also acknowledge the potential to engage with them in some scenarios when investing in conflict resolution and peacebuilding. This mention should note that in some instances they have driven insecurity and committed human rights and international humanitarian law violations, having a direct negative impact on civilians and on statebuilding.

2. Encourage a more harmonized and strengthened regulation of PMSCs.

The above recognition should go hand in hand with a call for accountability and the need for strengthened and more harmonized PMSCs regulation, linking it to current efforts by the Open-Ended Working Group and international framework, which released a second draft in late 2022. It should also encourage key stakeholders to consider membership in the Montreux Document process and the International Code of Conduct for Private Security Service Providers' Association with the goal to promote good practices in the contracting of PMSCs. Ensuring harmonized and stronger regulations can help reduce the risks of PMSCs deployment, especially in conflict and post-conflict settings.

3. Putting Women and Girls at the Center.

To support the UN Secretary-General's call to put women and girls at the center of peace and security efforts and given the clear gendered impact of PMSCs activities on local populations, the New Agenda for Peace should highlight the gendered risks of PMSCs. Furthermore, following the UN Women, Peace and Security agenda, the New Agenda for Peace should call for a closer attention to violence perpetrated by PMSCs for the acknowledgment of the highly gendered risk of PMSCs involvement in its call for more harmonized and strengthened PMSCs regulation.

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ABOUT SWISSPEACE

[swisspeace](#) is a practice and research institute dedicated to advancing effective peacebuilding. Partnerships with local and international actors are at the core of our work. Together, we combine expertise and creativity to reduce violence and promote peace in contexts affected by conflicts. As a practice and research institute, we have high expectations of ourselves. Not only in the field of research but also regarding practice. Our three boards help us to achieve this expectations by providing checks and balances as well as valuable inputs.

ABOUT THIS BRIEF

This policy brief argues for the inclusion of PMSCs in the New Agenda for Peace as key peace and security actors given the potential risks they pose in conflict and post-conflict settings, as well as their increasing use and their gendered impact. Furthermore, it suggests ways to engage PMSCs in key peace and security processes, such as peacebuilding. To illustrate this, the brief discusses the impact of PMSCs presence and activities on civilians and their role in training national security forces. It then highlights three specific considerations for Member States to consider as part of their deliberations during the September 2024 Summit of the Future.