



ماعت للسلام والتنمية وحقوق الإنسان
Maat For Peace, Development, and Human Rights

Maat's Report to the Working Group on the Use of Mercenaries about the Role of Private Military and Security Companies in Immigration and Border Management, and the Impact on the Protection of the Rights of All Migrants

Preamble

Most countries in the world are introducing stricter border controls and expanding immigrant detention, and countries are increasingly moving towards this goal, towards using a group of multinational companies to manage a range of security services that were previously considered the responsibility of governments alone. **Maat for Peace, Development and Human Rights** believes that these procedures, including the use of private security companies to manage migrants' detention centers and monitor deportees at the borders, made it difficult to determine the legal responsibility and the individuals to be held accountable if things go wrong.

Recently, the engagement of private military and security companies in immigration-related detention facilities and border management has increased after the European Union set its own agenda in 2015, in response to the steady increase in the number of deaths of refugees and asylum seekers who were swallowed by the waves while desperately trying to reach European shores. This coincided with the increasing use of these companies. Many reports have precisely documented the scope and nature of human rights violations committed

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adopted the agenda, and as a response to the ongoing refugee crises, it used foreign sources such as private military and security companies, to manage borders, neutralize violations committed in the context of immigration, in addition to carrying out deportations and removals processes. Moreover, these companies are responsible for transportation, housing, refugees and migrants' detentions, management of detention facilities, reception centers, as well as emergency treatment centers.²

Coinciding with the migrants and refugees flows from regional conflicts that have recently spread, the talk about the increasing violations of human rights carried out by officials working in the private military and security companies that implement the policies of the European Union, began. Additionally, the problem of providing a remedy and reparation to victims of human rights violations, in the context of migrations, remains an intractable challenge to date, for two reasons. The first of which is the judicial barriers faced by victims to report these violations; whereas the second is the special situation of private military and security companies. Given the unofficial and inactive status of these companies, they are not directly bound by the provisions of international law and its obligations, and it has been proven that a private company in immigration and border management is clearly involved in the case of detaining migrants on Manus Islands in the independent state of Papua New Guinea, in which class actions were

² Migration, terrorism and austerity help contractors to prosper, Economist, 25 June 2016.
<https://www.economist.com/business/2016/06/25/silver-linings>

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filed against the Commonwealth of Australia and two contractors of the private security companies responsible for detention facilities. G4S Security Company was found guilty, and the case was settled, without recognition of liability, for AUD \$70 million, in addition to attorney's fees³.

Human Rights Violations by Private Military and Security Companies in Immigration-related Detention Facilities

Maat for Peace is deeply concerned over the participation of many private security companies in violating the rights of migrants, which was referred to by experts during a discussion organized by the working group on the use of mercenaries on the sidelines of the UN annual Forum on Business and Human Rights in November 2019 in Geneva. The experts have highlighted in particular, the horrific human rights violations in the context of privatization of immigrant detention facilities and other elements by some countries in the Americas, Europe, and Oceania, which use the services provided from private security company to manage migration flows. As reported by Lilian Bobbia, a working group member, experts found, in a report issued in 2017, that using a foreign source for managing immigration-related detention facilities significantly jeopardizes human rights. "States are obligated to supervise and monitor privatized detention facilities, and take appropriate steps for

³ Transnational Tort and Access to Remedy under the UN Guiding Principles on Business and Human Rights: *Kamasae v Commonwealth*, 2018, Available at: <https://cutt.us/VeCoQ>

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providing the protection and redress for those deprived of their liberty,” Bbbia said. She also drew the attention to the challenges of accountability and the possible ways of addressing the challenges posed by the privatization of immigration detention facilities.⁴

In the same context, it is worth noting the "Homestead" detention center, despite its classification by the US government as a temporary emergency immigration facility, in the period from March 2018 to July 2019, which is run by a private profit-making security company, which has received tens of millions of American dollars, through the federal government. Maat noted with great concern that the children held in this facility were subjected to prison-like conditions, and dozens of them sleep in bunk beds, in large windowless rooms with no natural lighting, and children wake up at six in the morning, and they are given five minutes to shower, and only given two-hour daily break. Family visits don't exceed ten minutes twice a week, and children, even siblings, are denied communication with each other. Moreover, Maat is gravely concerned about the quality of education and health care that children receive in detention. Children are usually separated by sex, with boys being referred to as "Romeo", and girls are called "Juliet", and when

⁴ Concerns over States contracting private security companies in migration situations, Ohchr, 19 Dec 2019.
<https://cutt.us/gzVKD>

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they go out, they walk along a line chalked on the ground, always accompanied by a security official wherever they go.⁵

In the light of the previous violations, the private security company "GEO Group", which was hired by The United States Department of Homeland Security (DHS) to supervise the detention centers, in which many immigrants and refugees are kept in, is committing a number of human violations, since it makes huge profits from keeping migrants in detention. The violations against migrants also include deprivation of civil and political rights, such as arbitrary detention, torture, or failure to observe legal principles, as well as economic, social and cultural rights such as the right to health, housing and education. Deprivation of migrants' rights is often closely related to discriminatory laws and profound attitudes of prejudice or xenophobia. It is worth noting that the previously mentioned company, GEO Group, runs 130 detention centers in the United States of America, and many lawsuits have been filed against that company, due to its violation of laws such as: minimum wages, unfair enrichment, and countering slavery, as well as forcing detainees to work for free, by threatening them with punishment and denying them their basic rights.⁶

⁵ Children should not be detained”: Homestead center violating rights, Amnesty says, Miami herald, 19 Jul 2019. <https://cutt.us/6EKPF>

⁶ A Judge Says Thousands of Detainees May Sue a Prison Company for using them as a “Captive Labor Force”, mother jones, 5 Dec 2019. <https://cutt.us/jFY02>

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- Provide all fair and effective remedies for refugee and migrant victims.
- The need to use the relevant authorities, business sectors, and of course civil society organizations to develop an integrated strategy to ensure addressing human rights violations and abuses committed against migrants and refugees.

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