

Partners for Transparency’s Report to the Working Group on the Use of Mercenaries on 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

General background

Private security companies, created by neoliberal economic policies, have become noticeably present in recent times, especially with the increasing number of migrants and refugees, which calls for a long, real and multi-dimensional responsibility. It is worth noting that the role played by such companies is functionally equivalent to that’s of the state - the proper treatment for people imprisoned for committing crimes once they are given the state job. These contractors – such as their counterparts in other sectors of private enterprises - seek to maximize their profits and expand their businesses, which increased violations in detention centers and promoted penal codes imposed as argued by some monitors. Partners for Transparency is deeply concern over similar concerns on private detention centers that are used to detain illegal migrants and asylum seekers, whom the Foundation consider administrative detainees not convicted criminals, or even prisoners. However, the state, backed by the assistance of such private companies, has decided to arrest them for carrying out administrative procedures such as deportations or asylum seeking-related decisions.

In this regard, these private companies carry out many humanitarian violations against migrants, in a flagrant violation of international humanitarian law, to which these companies are not a party, which spare them the direct legal accountability. This calls for international community to intervene, along with exerting all international pressure on those countries that use these companies, as well as developing a firm and strict international legal framework according to which these companies can operate to ensure the promotion and protection of the rights of migrants and asylum seekers. Therefore, Partners for Transparency submits its report to the working group on the use of mercenaries, in an attempt to highlight the seriousness of the human rights-related issue,

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with examples of those security companies and their violations that have recently become catastrophic and horrific. It also offers some recommendations to be considered by the working group during the latter's presentation of its comprehensive report on the role of private military and security companies in immigration and border management, and its impact on the protection of the rights of all migrants.

The Effects of the Private Military and Security Companies' Illegal Powers on the Rights of Asylum Seekers

mercenary-related activities can jeopardize the achievement of Sustainable Development Goal (SDG) 16, which promotes peaceful, just, and inclusive societies, and goal (16.2), in particular, which addresses abuse, exploitation, human trafficking, violence against children in its all forms, as well as impunity - including violations by non-state armed actors - is essential to in promoting the rule of law, as outlined in target 16.3. Yet, pervasive impunity for crimes committed by mercenaries is a common challenge¹. Partners for Transparency recommends the adoption of an international legally binding instrument by international community to address their activities, and the establishment of domestic regulatory legislation, alongside procedures for oversight, registration, licensing and vetting of such private contractors.

In conjunction with the recent increase in the number of asylum seekers, private security and military companies have expanded their powers and violated the rights of those migrants. Partners for Transparency has observed that the private security company G4S has warned asylum seekers against disposing their places of residence, otherwise they will be detained and deported, in a misrepresentation of the powers of the company and a potential violation of the right to care. The letter of the company warned asylum seekers that people living in the company-provided accommodations are asylum seekers, and they may be detained and deported from the United Kingdom, if they exhibit unacceptable behavior during their stay in the housing, and the foundation believes that such an act does not fall within the purview of the private company officials, but it does mean that such companies are operating outside the framework of the law, representing a serious challenge, since most asylum seekers who have killed themselves in recent years have been threatened with deportation to violent, crime-ridden countries.²

In February 2020, the Home Office announced that Serco, operator of Yarl's Wood, would take over detention centers run by G4S, and a Hampshire-based company that

¹ To read more about Sustainable Development Goals. <https://uncitral.un.org/en/about/sdg>

² G4S warns asylum seekers 'behave or be deported' in potential breach of law, Independent, 24 Apr 2017. <https://cutt.us/p8FNJ>

already ran the infamous "Yarl's Wood" detention center would take over control of Brookhouse and Tinsley House as from May 2020 until 2028, with an extension option until 2030. The British Home Office said that Serco has many additional obligations under the new contract, including a significant increase in staff numbers, and availability of activities for detainees seven days a week, in the wake of the withdrawal of G4S from the migrant detention market due to the range of serious accusations it received, including the serious abuse of detainees at Brook House, into which a public investigation is scheduled to be conducted by the end of the year.³

Violations of Private Security Companies against Detainees in Immigration Facilities

There was not much to be discussed on the agenda that specifically targeted partnerships between governments and companies in refugee affairs, during the UN Forum on Business and Human Rights that was recently held in Geneva in November 2019. This, however, did not prevent speakers from presenting a grim picture of these partnerships between government and private security companies, especially those based in Australia and the United States of America. For example, there is the case of "Aziz Abdul Mahmoud", a former asylum seeker from South Sudan, who was arrested near the Australian sovereign border, where he was detained on Christmas Island before being transferred to Manus Island and held there for six years. He personally testified about the violations committed by private actors, including being beaten up, with 150 other prisoners, in 2014 by G4S guards on Manus Island, for protesting against their detention conditions.⁴

In the same context, Muhammad was among the speakers testifying that private security companies often change their names - usually after allegations of human rights violations, but in his view, faces remain the same, as governments resort to using foreign inhumane sources. The Australasian Centre for Corporate Responsibility (ACCR), Brian O'Brien, has described the Australian government as a world leader in mistreating people in immigration and in using foreign sources for risks and violations, and said that government-commercial contracts are governed by a limited system of accountability, which - if any - provides an effective legal void where damage can be done with impunity.⁵

In addition to the fact that detention centers, especially those affiliated with the US Immigration and Customs Service, which most of them are run by private security companies, use gas to subdue detainees, which is ten times more toxic than pepper spray,

³ Yarl's Wood operator Serco to take over G4S-run detention centres, 20Feb2020. <https://cutt.us/6Kzdl>

⁴ Business in migration and asylum affairs: grim conversations at UN human rights forum, UNSW, 19 Dec2019. <https://cutt.us/lAJFI>

⁵ Ibid

and officials of those facilities put detainees with serious criminal records with detainees with only minor criminal records or those who were only charged with immigration violations, all of this in addition to violating the standards of physical and psychological health care. In 2012, one of the detainees died of a heart attack, in one of the GEO's detention facilities, because the nurse needed to complete the paper works of the detainee's health condition prior to calling the emergency, leading to the death of the case. Moreover, in 2018, at one of "Core Civic" detention facilities, a one-year-old girl died, and as reported by the Ministry of Interior's Inspector General there was a shocking medical negligence at the GEO Group facility located in in Adilanto, California, and also pointed out deficiencies in providing necessary and timely medical care.⁶

Recommendations

Partners for Transparency recommends the Working Group on the Use of Mercenaries to exert pressure on the countries that use private security companies to implement the following:

- Ensure that private military and security companies complicit in human rights violations are held accountable and brought to justice.
- Establish appropriate regulations and laws to improve surveillance and accountability for violations of private security companies against refugees and migrants.
- The necessity of involving civil society organizations and relevant bodies in developing a national strategy and legislative initiatives; to ensure the commitment of military and security companies to international human rights and humanitarian laws.
- The importance of promoting the political administration to supervise military and security companies, and hold them accountable for human rights violation

⁶ ICE FAILED TO PENALIZE CONTRACT IMMIGRANT JAILS WITH THOUSANDS OF SAFETY AND RIGHTS VIOLATIONS, public integrity, 1 Feb 2019.