

Declaration on Private Military and Security Companies

In defence of the rule of law, the responsibility of States to promote and respect international human rights and humanitarian law, and the fundamental rights and freedoms that define democracy, we call for the adoption of a legally binding international convention to oblige States to regulate the activities of private military and security companies.

State employment of private military and security companies (PMSCs) in conflict and post-conflict situations has expanded massively in the past decade. PMSCs now carry out military and security activities that were traditionally inherent State functions, including armed operations to guard facilities and interrogations of prisoners. Furthermore, PMSCs are increasingly employed to provide domestic security, including prison administration and prisoner transport. This trend toward privatization of military and security operations has grown to such proportions that it threatens the sovereignty of States and with it, their ability to safeguard fundamental human rights. At the same time, citizens find their nations' private military and security activities shielded from public investigation and scrutiny. Without transparency and regulation of PMSCs, societies will experience erosion of the rule of law and the undermining of democratic institutions.

In order to address these problems, nations should drastically reduce their reliance on PMSCs. **They must end all outsourcing and delegation of inherently State functions.**

PMSCs have had a devastating, negative impact on human rights. Legal and factual studies on the widespread use of PMSCs in Iraq and Afghanistan have documented these companies' violations of international humanitarian law (IHL) and human rights (HR) law. These violations include torture, sexual assault, indiscriminate killing of civilians, and the suppression of workers' rights. Multiple incidents have demonstrated that even when cases of HR abuses and violations of IHL by PMSCs are well documented, the companies, their managers, and their employees are neither held accountable nor punished.

Confronted with this growing crisis of contractor misconduct and impunity, the international community has failed to respond. Existing international and national legal instruments are inadequate to hold companies accountable for human rights violations or to enforce criminal judgements against violators. Voluntary codes of conduct are not sufficient to protect victims, to secure compensation for those mistreated or killed, or to prevent future abuses. If control of the highly globalized PMSC industry is to be effective, international cooperation is mandatory.

We support **a legally binding, international convention to oblige States to regulate PMSC activities, end private contractor impunity, and provide avenues of redress for the victims of their abuses.** We seek the support of all citizens of the world, the endorsement of civil society organizations, and the commitment of our governments to adopt an international convention, WITH THE AIM TO:

1. **Strengthen the responsibility of each State**, as the guarantor of the obligation to respect, protect, and enforce human rights, to ensure that PMSCs and their employees do not contribute directly or indirectly to violations of IHL and HR law. States – whether home States, contracting States, or States of operations¹ – are in all cases accountable for the activities of PMSCs within their jurisdiction, even when these private contractors are not acting under the direct order of public authorities;
2. Reaffirm that each State holds a monopoly on the legitimate use of armed force, which is an intrinsic element of its sovereignty – an inherent state function – that cannot be delegated to PMSCs nor to their subcontractors. **Functions that are inherent to the State can never be delegated nor outsourced;**
3. Challenge the current culture of impunity and lack of transparency in cases of PMSC's HR and IHL violations by promoting the **adoption, strengthening, and effective enforcement of national laws to impose criminal, civil, and/or administrative sanctions on PMSCs and their employees** that violate these laws, and **to provide adequate and effective remedies, including restitution and/or compensation, to all victims.** States should also enact legislation concerning the licensing and monitoring of PMSCs that conforms to the highest international standards, in order to end secrecy and provide for democratic scrutiny;
4. **Require States to report regularly and accurately** to a United Nations committee about the conduct of PMSCs under their jurisdiction. All stages of the reporting should be public and transparent. Reports from civil society organizations and experts should be solicited and welcomed.

As defenders of the rule of law, international human rights and humanitarian law, and the fundamental rights and freedoms that define democracy, the signatories of this declaration support regulation of PMSCs and their activities through the adoption of a **legally binding International Convention** based on the recommendations of the Working Group on the Use of Mercenaries of the Human Rights Council of the United Nations.

¹ According to the draft convention, a home State is the State of nationality of a PMSC, i.e. the country where a PMSC is registered or incorporated; a contracting State is the country that directly contracts with a PMSC for their services; and a State of operations is the country in whose territory a PMSC operates.