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## The role of PMSCs in humanitarian action

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**Private Security Companies - introduction**

The modern state is a human group with a monopoly on the right to the legitimacy of the use of material force within certain limits. ”

Philosopher Max Weber

Private military and security companies operating in situations of armed conflict must respect the provisions of international humanitarian law. Private security companies have become a growing phenomenon in the international arena, since the nineties following the armed conflicts that broke out in many parts of the world, as countries adopt a policy of assigning companies to do business Instead of assigning to the army, those actions that accompany the military sectors, starting with equipping the military forces with food and equipment and transporting supplies, ammunition and fuel, and private security companies have come to play an important role in achieving the foreign policy goals of major countries, because private security companies can achieve these goals States and their corporate giants goals.

Introducing private security companies:

The international agreement on private military and security companies that was submitted to the United Nations working group concerned with studying the issue of the use of mercenaries as a means to impede the peoples' exercise of their right to self-determination defined each of the private military and security companies in its second article as follows: “Private military and security companies are an organization established on the basis of Legislation by a state party to provide, on a paid basis, military or security services through natural persons or legal entities

operating under a special license and include military services to services related to military actions, including combat operations, strategic planning, intelligence, logistical support, training, technical support, and others, while security services include armed escorts. For property and people, and activating the application of security, information and information measures and other activities that involve the use of technical means that are not harmful to people and the environment in order to protect the legitimate interests and rights of their clients.

Accordingly, we can show the most important characteristics that make up private security companies, which are:

- It is distinguished by its commercial character because it provides services in exchange for obtaining material profit, just like commercial and economic companies of a special nature, and it also trades in security and safety and the supply of fighters or the supply of weapons and basic equipment or training or intelligence.

- The special nature of the work of these companies is work in the security and military sectors, and these characteristics are characteristic of the national regular armies. As for their services on the security side, they are guarding people, whether they are heads of state or government.

- These companies are of a private nature, as they are owned by individuals, not governments or states, as they are companies that individuals create for their own account to make profits.

- These companies have an organizational structure and have departments like other commercial companies

The private security companies are defined according to the International Code of Conduct for the Services of Private Security Companies in 2010 as “any type of business or entity in any form (whether private, public or institution) that guard and protect people and property, such as accompanying official processions and protecting institutions and specific sites. And the protection of property or any other places, or any other activity for which companies or persons carry or use weapons to accomplish their duties ”.

In this context, the United Nations uses specific criteria to clarify what the services of private security companies are:

Private civil security services provide comprehensive services that generally aim to protect and secure people, goods, places, locations, events, operations, and information from hazards.

The private civil security services are provided by legal or natural persons working for a wage.

Private security service providers are officially approved and regulated bodies.

What are private military and security companies?

”PMSCs are private commercial entities that provide military and / or security services, regardless of how they describe themselves. Military and security services in particular include the provision of armed guards and the protection of persons and objects such as convoys and% pw - private security services can be preventive or supportive services for public law enforcement agencies.

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The rise of private military and security companies, as an international actor - non-state - is strongly present in the international relations scene in our world today, which raises questions about the legitimacy of the role of these companies, and about the possibility that they threaten the foundations on which the concept of the nation-state is based. Modern. Some countries have begun to privatize capabilities and energies and "outsource" them, to use them to preserve the security of their citizens, or to wage wars against their opponents. This is in order to save in their budgets and reduce the financial and human burdens on their shoulders, or to do some secret work that you may not want to do directly, officially or overtly.

Commercial entities

Despite the controversy raised among a large number of researchers, scholars, jurists, politicians and financiers about the legality or legality of the work of private military and security companies and their persons, these companies are considered private commercial entities that provide military and / or security services. Regardless of describing some of them as "mercenary" companies, or describing themselves as "contracting" companies, they are considered by some to be one of the manifestations of military, security and political economic globalization and one of its arms. It undertakes to provide military and security services in particular, by providing armed guards, protecting people and objects,

such as convoys, buildings and other places, maintaining and operating weapons systems, detaining and interrogating prisoners, and providing advice or training to local forces and security personnel.

How did it arise?

Some researchers believe that the beginning of the establishment of security companies dates back to the period after the Second World War, after the establishment of the company "DynCorp" by a group of veterans in the United States of America in 1946. Others believe that it dates back to the mid-sixties of the last century. When the Scottish English Colonel Sir David Sterling established the "Watch Guard International" company, which provided its services to some Gulf countries.

The demand for the services of private military and security companies has increased since the end of the Cold War, and it has turned at the present time into a major industry providing a wide range of services, which necessitated that some employ more than 100,000 employees. This is what led to the development of the international position on it significantly, which was represented in its endeavor to transform them into legal entities, or to develop the legal frameworks that regulate their work, as well as to accept their participation in international peace-keeping operations at a later stage, especially in Africa.

Today, there are a large number of giant security and military companies operating in the world, which take many countries in the five continents as centers of their practical activity. Perhaps the most famous, according to some references, is the well-known American Blackwater, the British G4S, which operates in 125 countries, and employs more than 600,000 employees, and the Swiss Securitas, which operates in 45 countries, and employs a total of 250,000 employees. Likewise, the French company Scopex operates freely in a large number of African and Asian regions without any supervision or control. And this is in light of great coordination between the heads of state of Africa, which holds a large number of its politicians French citizenship.

In addition, companies such as US Halliburton and Ascard German, South American Devion International (Peru), Executive Outcom South Africa, then Sandline International and British Aegis Defense.

There are also several small Arab companies such as Falcon, Care Service, and Commandos in Egypt, and Security in Lebanon, which handle the affairs of guarding and escorting some personalities and private facilities, and these

companies do not rise to the ranks of other major security and military companies. In the world in terms of both its size, its functions and its roles

missions

The concept of the private military and security companies' industry in general refers to commercial companies that enter into legal contracts, with the main aim of making a profit in exchange for the services they provide in the security field. Its activity includes providing military services related to strategic planning, intelligence, investigation, and land, sea or air reconnaissance, as well as aviation operations of any kind, and material and technical support to the armed forces, and other related activities that may develop into direct involvement in conflicts and operational participation in war. . In particular, security services include the provision of armed guard and protection of persons and property, such as convoys and installations, maintenance and operation of weapons systems, detention and interrogation of prisoners, and counseling or training for local forces and security personnel.

According to some sources, some of these companies are linked to major global intelligence services, as they provide "secret" services that serve the policies of their countries, or carry out "dirty" actions for their benefit, in most countries of the world.

On the other hand, a number of these specialized companies carry out missions for the benefit of the United Nations and the Security Council and participate in some international peace-keeping operations, mine clearance, the protection of United Nations personnel, their headquarters and their movements, as well as the protection of humanitarian aid convoys in many conflict hotspots around the world, especially in Africa. From Sudan to Somalia, Nigeria, Mali, Sierra Leone and others.

The most important companies

Dozens of major security and military companies are spread around the world, followed by hundreds of ancillary and assistance companies. Perhaps the most important and most famous of them are three:

**• BLACKWATER or Xe Services:**

Formerly known under the name Academi, it is a company that provides security and military services and is considered one of the most prominent private military companies in the United States. It was established in 1997 in accordance with US

laws that allow the establishment of private military factories and companies. Despite this, it was widely criticized after the publication of the book "Blackwater Mercenaries: Bush's Invisible Army," which stated that it supports the US military in Iraq and that its soldiers enjoy immunity that protects them from prosecution. This company provides its services from training and special operations to governments and individuals, and the average daily income of its employees ranges between 300 and 600 dollars.

The company’s founder is former SEAL officer Eric Prince, and its chairman is Gary Jackson, a former Navy Seals officer. The company says it owns the largest private training and shooting site in the United States, extending over an area of ​​28 square kilometers in North Carolina. It won its first security contract with the United States government in the year 2000 after the bombing of the US destroyer "Cole" near the Yemeni coast. In 2004, its president said in a press interview, "The company signs contracts with foreign governments to provide security services with the approval of the United States government." The Washington Post wrote in the same year that the United States government had hired an elite military (commando) division to protect employees, soldiers, and intelligence officers in Iraq. She said that describing them as military contractors with the government is not accurate, and the correct description is "mercenary soldiers," and she spoke about sending thousands of them to Iraq.

Blackwater is the most prominent example of what similar companies can undertake in terms of missions. It participated in the military actions in Iraq and Afghanistan, and its name finally emerged as a participant in the 2015 and 2016 Yemen wars alongside "government and coalition forces" against the Houthis.

This company has a database of about 21,000 former Special Forces soldiers who can rely on their services, and has advanced military equipment that is no less than what regular armies possess. In March 2015, Iraqi sources revealed the renewed role of private security companies, and their assistance to the Iraqi forces in their military operations against ISIS, with the support of the United States, because these companies have forces specialized in guerrilla operations and combating terrorism.

G4S = (Group 4 Securicor):

It is a multinational security services company of British origin, founded in 2004, and described as the largest "private army" in the world, with its headquarters in Crawley, south London, in West Sussex.

This company is considered the third largest private sector employer in the world after Wal-Mart and Foxconn, and it has more than 657 thousand employees, and is classified as the largest security company in the world in terms of revenues and operations that include 125 countries and its annual income (2014) was estimated at 6 billion and 848 million pounds. Sterling.

Dyncorp:

Founded in 1946, it is one of the largest private security companies in the world, employing about 17 thousand people, and its revenue in 2010 was estimated at 4 billion dollars, and it is part of the International Association for Peace Operations that represents the interests of the main players in the creation of peace, stability and humanitarian operations in Conflict zones in the world.

International law position

Experts in the field of international threat management point to the danger involved in the absence of legal regulation for the activities of these companies, and they believe that it is necessary to adopt a legal framework that regulates the activities of private military companies, so that they do not constitute a situation in which these companies impose their dictates on states, forcing them to abandon Its sovereign role in securing the national defense function, as well as the political considerations that accompany its use, which lead to great difficulty in applying the conditions for mercenaries to these companies.

International law considers the employees of private military and security companies to be civilians, unless they join the armed forces of a country or are entrusted with combat missions in the interest of an organized armed group belonging to one of the parties to the conflict. International humanitarian law has defined the position of PMSC employees in armed conflict on a case-by-case basis, and on the nature of the missions in which they are involved and the circumstances surrounding them.

New standards

Several international initiatives have been launched with the aim of clarifying, reaffirming, or developing international legal standards that regulate the activities of private military and security companies, in particular to ensure their compliance with the standards of conduct reflected in both international

humanitarian law and human rights law, and to distinguish their actions and individuals from the concept of "mercenaries."

A joint initiative between the Swiss Ministry of Foreign Affairs and the International Committee of the Red Cross led to the creation of the "Montreux Document" (Montreux), on international legal obligations and good practices of states related to the operations of private military and security companies during armed conflict (2008), which was adopted by 17 countries. There are now more than 40 states signatories to this document that reaffirms the current legal obligations of states with regard to private military and security companies, and also recommended the adoption of a guide to good practices in order to implement those obligations in practice, and to ensure compliance with the requirements of international humanitarian law.

Mercenaries

According to Article 47 of Protocol I (annexed to the 1949 Geneva Conventions) relating to the protection of victims of international armed conflicts issued in 1977, mercenaries are defined as follows:

Anyone who is specially recruited, domestically or abroad, to fight an armed conflict.

He who is actually and directly participating in hostilities.

His primary motivation to participate in hostilities is the desire to gain personal gain from a party to the conflict, or a promise of material compensation that goes beyond what is promised to combatants of comparable ranks and positions in the armed forces of that party, or what is paid to them.

He is not a national of a party to the conflict, nor is he resident in a territory controlled by one of the parties to the conflict.

Not a member of the armed forces of one of the parties to the conflict.

He is not delegated on an official mission by a country that is not a party to the conflict as a member of its armed forces.

This definition of mercenary is considerably restrictive, as employees of PMSCs must meet certain stringent and cumulative criteria in order for them to meet the definition of mercenaries. Any person who is a subject of one of the parties to the conflict is not automatically considered a mercenary. Rather, the person must be employed specifically for the purpose of direct participation in the fighting, motivated by the desire to achieve a special gain, and to actively and directly

participate in hostilities. As a result, most PMSC employees do not fall under the definition of mercenaries.

Between the privatization of security and the flourishing of wars

Although the phenomenon of privatizing security is not considered one of the developments in the current situation in the Middle East, it has developed and flourished in parallel with the events it is witnessing, especially from the beginning of the third millennium until today. Also, some analysts and researchers see a relationship between the activities of some of these secret companies and the events and disputes that occurred or occur in a number of countries in the region. Others believe that these companies have become a source of very serious threats to national security in some countries, in light of their lack of the necessary legal frameworks to control their roles and work, or oversee their activities.

Likewise, reliance on private security companies creates a state of dependency or dependency on the state, for the benefit of those who perform security functions that the local authorities are unable to perform, and this results in the weakness of the national security sector in these countries and raises the level of their classification as failed states. In addition, working in PMSCs is tempting individuals, even those who still serve in the national armed forces. There are private military and security companies that are included in the list of stock and bond markets, and they are making profits for their investors, which leads some workers in the national security sector to resign and seek to work for the benefit of these companies, as in some developed countries. As for the weak states that try to rebuild their forces, they face the problem of depriving them of the competent national human element, as is the case in Somalia, Afghanistan, Iraq, Libya and Yemen, or other countries that are classified as failing or are on the way to failure.

History of the emergence of private security companies:

The emergence of these private security companies “security protection companies, security contractors” dates back to the colonial era of the last century, especially in African countries after the French and British colonialism, and they were used by some leaders in Africa and Latin America to suppress and liquidate dissent, and they were also used To carry out military coups, and with the passage of time these companies began to provide their services to transcontinental companies operating in the oil and mining field, and began to operate in troubled areas with the aim of providing security and guarding until the matter developed so that these private companies would carry out security tasks and special military operations, and the first company was established. A private security by a former member of the British special squad, Jim Johnson, and his clients were in the beginning from international political and commercial personalities, and the work was limited to providing protection and training private guards.

Competition between private companies activated this profession and soon the work of these companies moved from security protection. It has expanded the scope of these companies and the development of this market and that trade through the establishment of relations with the intelligence services The British and American forces, especially the US Department of Defense, have become the most important customer in the world for the use of these companies. Since the second Gulf War in 1991, many security companies have appeared and have provided their services to the American forces.

In view of the magnitude of the tasks that these companies carry out, they have begun to look for an ethical or political cover to justify their activities and have credibility and legitimacy, and for this purpose, these companies supported by governments that run them or benefit from them have tended to promote themselves as they are companies that provide technological and training services, and that their role is not Igniting wars and killing innocent people. The positive model that these companies presented to themselves was that which the South African "Outcomes Executive" company in Sierra Leone carried out in 1995 when they succeeded in restoring stability to the country, expelling the rebels and returning 300 thousand refugees to their country, and from here these companies started moving to gain approval United Nations officials entrusted them with tasks, but the US war on Iraq in 2003 and the subsequent occupation of this country revealed the size of these companies and the crimes they had committed, and dispelled all allegations about their legitimacy.

The motives of the emergence of private security companies:

The motives and reasons for the emergence of private security companies have varied, the most important of which are summarized as follows:

Employing security and military companies as a protective mechanism for countries under the control of the major powers, as these companies protect the officials of these countries, which is considered less expensive than military colonialism.

The emergence of private security companies is considered a method of demolishing the building of the modern state, and this construction went through several stages until the structure was completed, from the guardian state to the intervening state to the guarding state again, whose mission is limited to maintaining public security within the state, to the state with a limited role. The phase of the state’s withdrawal from all economic activities began, to limit its role to security and guard duties. Then the phase of privatizing security began and presenting it to the market as a material commodity.

The desire to carry out operations and activities outside of the laws and conventions entrusted to it, whether by the national state or the international community, that is, to contribute to carrying out military coups to change governments that refuse to submit, without publicly engaging in such unlawful behavior.

Carrying out operations bearing the label "crimes" for the benefit of a certain country that the latter fears doing in public, because it violates international law and humanitarian standards.

- The United States of America and other countries reduced their human numbers in their army, which led to the creation of a surplus of military manpower, expertise and capabilities that these people enjoyed, which formed the nucleus of private security companies.

Relying on private security and military companies is a fundamental strategy that has become relieving many of the burdens of tasks on the national armies.

International jurisprudence opinion on private security companies:

The positions of states and international law jurists regarding private military and security companies differed between supporters, conservatives, and opponents. Opinion about them was divided into two parts, which we present in the following:

First opinion: the opinion supporting the existence of private security companies:

The owners of these companies, their founders, the workers and those behind them stand on top of them, and this is logical and natural, because they defend their trade, the source of their livelihood, and their work that generates more income for them than any other work, and they base this on the following:

 There is no difference between private military and security companies and companies operating in any other economic field. Their activities are legitimate, as evidenced by the existence of laws that regulate their establishment and work in the countries of origin.

 The owners of these companies insist that there are differences between the services and business provided by the private military and security companies and the activities of mercenaries. These companies have their forces fighting alongside legitimate sovereign governments and thus have ethical standards that govern and control their work and their participation in conflicts, unlike the mercenaries who aim to The material gain from their intervention.

Second opinion: the opinion opposing the emergence and existence of private military and security companies:

Supporters of this opinion argue that the establishment and existence of private military and security companies is illegitimate, and considered their members to be mercenaries, just as the existence of these companies threatens international peace and security. Supporters of this opinion are based on the following:

 That private military and security companies are driven by profit making and not their job duty entrusted to them, as the commitment of these companies is very limited compared to the commitment of regular military forces, i.e. regular armies.

 Individuals of these companies are not subject to the chain of command in force in the regular armies, which gives them complete freedom that results in many violations.

The armed forces of states have a wide range of disciplinary measures in addition to the military law itself, which helps with discipline and respect for international humanitarian law and achieving command and control over the forces under their command as well as the tools of command, which guarantees order and guarantees the potential criminal liability of these forces officers and soldiers. A tool to prevent violations of international humanitarian law by soldiers and officers during military operations. This system does not exist in private military and security companies, which makes it impossible to prosecute the members of these companies.

 The non-conflict personnel of these companies lack comprehensive training that could enhance the military capabilities of these companies when needed.

The status of private security companies in international humanitarian law:

In the traditional jurisprudence of international law, states were the only legal entities with an international legal personality, as this law aims to regulate relations between states, so they were considered the only person of international law and it was the beginning of changing this direction and expanding the scope of the international legal personality to include other non-state entities with The advisory opinion of the International Court of Justice in the case of compensation for damages occurring in the service of the United Nations in 1949, which went to the possibility of international organizations enjoying the international legal personality under certain conditions. A trend has emerged calling for the expansion of the scope of international legal personality after the advisory opinion of the International Court of Justice in compensation for damages that occur In the service of the United Nations to include not only the natural individual but also the legal persons from companies that conduct their work on an international scale, crossing the borders of one country, and from the point of view of international humanitarian law the only legal effect of being a mercenary is that he is not entitled to the status of a prisoner of war when he participates. In a regional or international armed conflict, as for the legal status of the companies themselves, international humanitarian law does not define it.

The International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989 confirms the legal responsibility of mercenaries in the event that they participate directly in hostilities, or in a deliberate act of violence, and this behavior is considered a crime in the provisions of this convention and from this standpoint it is conceivable that the employees of military companies When they participate or participate in hostilities, or in an act of violence, they are exposed to individual criminal responsibility for these acts, as the 1949 Geneva Conventions adopted the principle of individual criminal responsibility for acts whose commission is considered as grave breaches according to the concept of those conventions and from On the other hand, individual responsibility here is not only limited to employees of private military and security companies who are involved in serious violations of the rules of international humanitarian law, but also extends to include the direct boss who exercises effective authority and control over the person accused of committing the offending act. Private security companies accused of committing crimes during armed conflicts, before the courts of all countries, and in particular, State A. Where the crime occurred, to which the victim belongs, or to which the accused belongs, or the country of whose nationality the PMSC is.

From what was mentioned previously, the following can be concluded:

- The presence of private security companies has become commonplace in various parts of the world, and their presence is as old as human societies. At the present time, they carry out various missions, and countries hire them to carry out security and logistical missions and carry out military activities.

- It is imperative to define the legal mechanisms that can determine the obligations of private security companies, as it has become imperative for the international community to put in place the legal framework for dealing with these companies formally in order to guarantee all their rights.

Most of these companies are commercial, aiming to achieve material profit, and most of their members are African mercenaries, or from multiple other nationalities who are practicing fighting for a wage.

International humanitarian law and private military and security companies

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**Private military and security companies during conflict**

The actions of private military and security companies in Iraq and other conflict areas have led to an intense debate over their legal accountability.

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What are private military and security companies?

PMSCs are private commercial entities that provide military and / or security services, regardless of how they describe themselves. In particular, military and security services include the provision of armed guards, the protection of persons and objects such as convoys, buildings and other places, the maintenance and operation of weapons systems, the detention of prisoners, and the provision of advice or training to local forces and security personnel. The demand for PMSCs has increased since the end of the Cold War to the point that there is now a major industry for these companies providing a wider range of services than ever before, with some companies employing more than 10,000 employees.

What is the situation of PMSC personnel under international humanitarian law?

International humanitarian law determines the situation of PMSC employees in the event of armed conflict on a case-by-case basis, and in particular according to the nature and circumstances of the tasks in which they are involved.

Employees of private military and security companies are civilians, unless they join the armed forces of a state or are entrusted with combat duties on behalf of an organized armed group belonging to one of the parties to the conflict. Accordingly:

They may not be targeted.

They are protected against attacks unless they take a direct part in hostilities and for the length of time during which they do participate.

If employees of private military and security companies carry out actions that amount to direct participation in hostilities:

• They lose their protection from attacks during this post.

• They may be prosecuted if they are captured simply for participating in hostilities, even if they have not committed any violations of international humanitarian law.

The protection of military bases from attacks by the enemy, the collection of tactical military information, and the operation of weapons systems in a combat operation are examples of direct participation in hostilities that may include individuals from private military and security companies.

See the explanatory guide to the concept of direct participation in hostilities under international humanitarian law issued by the International Committee of the Red Cross to identify the concept of direct participation in hostilities.

PMSC employees are required to respect international humanitarian law if they are operating in situations of armed conflict, and they may be criminally responsible for any violations they commit. This principle applies to these employees, whether they are appointed by states, international organizations or private companies.

Aren't PMSC employees just modern-day mercenaries?

The definition of mercenary in Article 47 of Additional Protocol I is quite restrictive. PMSC employees must meet certain stringent and cumulative criteria in order for them to meet the definition of mercenaries. Any person who is a national of a party to the conflict is not considered a mercenary in the first place. Moreover, a person must be specially employed for the purpose of direct participation in the fighting, motivated by the desire to achieve a special gain, and to actually participate directly in hostilities in order to be considered a mercenary. As a result, most PMSC employees do not come under the definition of mercenaries.

Any country that has ratified the United Nations and OAU conventions against mercenaries, or any of them, has a duty to prosecute and punish mercenaries. The only legal effect of being a mercenary is, from the point of view of humanitarian law, that a mercenary is not entitled to the status of a prisoner of war when he takes part in an international armed conflict, but he is entitled to adequate conditions of detention and to a fair trial.

Are there any international initiatives to regulate the work of private military and security companies?

Several international initiatives have been launched with the aim of clarifying, reaffirming, or developing international legal standards governing the activities of PMSCs, in particular to ensure their compliance with standards of behavior reflected in both international humanitarian law and human rights law.

A joint initiative between the Swiss Foreign Ministry and the International Committee of the Red Cross resulted in the "Montreux Document on International Legal Obligations and Good Practices for States Relating to the Operations of Private Military and Security Companies during the 2008 Armed Conflict", which was adopted by 17 countries. There are now more than 40 signatories to this document, which reaffirms the current legal obligations of states with regard to private military and security companies, and recommends a guide to good practices for the practical implementation of those obligations.

What steps can private military and security companies take to ensure that their personnel respect international humanitarian law?

Taking various measures, both before and during the deployment, is necessary to ensure respect for PMCs and security personnel

Various measures, both before and during the deployment, are necessary to ensure that PMSC personnel respect international humanitarian law. These measures may include:

• Accurate procedures for recruiting employees

• Appropriate training in the field of international humanitarian law

• Standard operating procedures and rules of engagement in compliance with international humanitarian law

Internal disciplinary procedures.

What is the responsibility of states with regard to private military and security companies that use their services?

States cannot evade their obligations under international humanitarian law by contracting private military and security companies. It remains responsible for ensuring that relevant standards are met and that the law is respected.

If employees of PMSCs commit violations of international humanitarian law, the state that has recruited them may be held responsible if the violations can be attributed to them under international law, especially if the company is operating under instructions issued by or under the control of the state authorities.

States should ensure that employees of these companies respect international humanitarian law. Important measures to achieve this include:

• Obligating staff to receive appropriate training in the field of international humanitarian law;

Requiring compliance with the rules of engagement for these companies and their normal operating procedures with international humanitarian law.

Furthermore, states must ensure that mechanisms are in place to allow accountability for PMSC personnel suspected of violating international humanitarian law.

What is the responsibility of countries that contract with or operate on private military and security companies?

All states have a responsibility to respect and ensure respect for international humanitarian law, including by personnel of PMSCs. Countries that contract with or operate on PMSCs are in a very favorable position to influence the behavior of PMSCs through national law.

One of the ways in which a country can exercise some measure of oversight is by creating a licensing system that regulates rules of conduct. Key elements of a potential national regulatory framework could include identifying the services that PMSCs or their personnel may or may not provide. Account must be taken of the question of whether a particular service could cause the personnel of PMSCs to participate directly in hostilities.

Countries can subject the issue of licenses to PMSCs to certain criteria, including the requirement that:

Training of its personnel in the field of international humanitarian law;

• Adopting standard operating procedures and rules of engagement that respect international humanitarian law, and appropriate disciplinary measures.

The state can also make approval of each contract dependent on the nature of the proposed activities and the status quo in the country in which the PMSC will operate. It can impose penalties on working without obtaining the necessary licenses or working in a manner that violates the terms of those licenses (for example, revoking a work permit, losing insurance bonds, or subjecting to criminal penalties ...).

This regulatory framework should be complemented by an effective system for bringing to justice those accused of violations of international humanitarian law.