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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

 Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination[[1]](#footnote-2)\*

 Mission to Ghana (8 to 15 December 2017)

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| *Summary* |
| The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of people’s to self-determination visited Ghana from 8 to 15 December 2017, at the invitation of the Government. Pursuant to its mandate, the Working Group’s visit focused on the impact of mercenary and mercenary-related activities on the human rights in the country and on the regulation of private military and security companies. The visit delegation met with the Ghanaian authorities and representatives from civil society organisations and with representatives of the private security industry in Ghana. The Working Group’s findings in the present report notes that the phenomena of mercenarism and foreign fighters were not a critical issue at the time of the visit. However, it observes that if certain destabilising factors are not addressed effectively, there will be potential threats to the stability of the country. The report raises concerns about the huge number of private security companies operating in the country, the spread of vigilante groups and armed individuals, and the activities of illegal mining, known as “*galamsey”* which also involve foreigners. The report also addresses challenges to stability in Ghana which include cross-border activities and the proliferation of illegal arms. The present report also highlights some good practices which form the cornerstone of Ghana’s peace and stability, such as the existence of a robust civil society and free media, the independence of the judiciary as well as practices that relate to the private security industry. |
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 Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination on its mission to Ghana (8 to 15 December 2017)[[2]](#footnote-3)\*\*

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 I. Introduction

 1. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (Working Group) conducted an official visit to Ghana at the invitation of the government, from 8 to 15 December 2017. The Working Group was represented by two of its members, Ms. Patricia Arias and Mr. Anton Katz. They were accompanied by staff of the Office of the High Commissioner for Human Rights and United Nations interpreters.

 2. Pursuant to Human Rights Council resolution 36/3 and General Assembly resolution 72/158, the Working Group is mandated to study the impact of the activities of mercenaries and private military and security companies on human rights, particularly the right of peoples to self-determination. In the past few years, the Working Group has devoted much attention to the impact of mercenarism, foreign fighters and private military and security companies on human rights in various contexts, including within the extractive industries.

 3. The Working Group wishes to thank the Government of Ghana for its invitation and the staff of the United Nations Development Programme in Accra who provided support to the visit.

4. During the visit, the Working Group held meetings in Accra and Takoradi and met with State authorities including the Minister of Defence, Minister of Interior, Deputy Minister of Foreign Affairs, and representatives from the Ministry of Justice. The delegation also met with the Chief Justice of the Supreme Court and her Chief of Staff. In Takoradi, it met with the Regional Commander of the Police Force for the Western Region as well as focal points in the government overseeing the licensing and regulation of private security companies. Meetings were also held with various staff and experts from the Kofi Annan International Peacekeeping Training Centre, as well as with representatives of civil society and non-government organizations. The delegation also met with individuals from the private sector, including the extractive industry and representatives of private security companies in Accra and Takoradi. In Accra, the delegation benefitted from meetings with various representatives of the United Nations. The Working Group extends its appreciation to all the interlocutors it was able to meet during the visit.

5. In the present report, the Working Group uses the term “mercenary” as it is defined in article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, namely, to describe any person who: (a) is specially recruited locally or abroad in order to fight in an armed conflict; (b) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; (c) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (d) is not a member of the armed forces of a party to the conflict; and (e) has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

6. In its research on mercenary-related activities, the Working Group devoted the past few years to studying the phenomenon of foreign fighters and its linkage to mercenarism. There is no internationally agreed legal definition of a foreign fighter but the term is generally understood to refer to individuals who leave their country of origin or habitual residence and become involved in violence as part of an insurgency or non-State armed group in an armed conflict. Foreign fighters are motivated by a range of factors, notably ideology, but can also include monetary or financial gains.

7. The right to self-determination is recognized in Article 1 (2) of the Charter of the United Nations as a fundamental principle and necessary for the achievement of universal peace. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which Ghana has ratified, also recognize that all peoples have the right to self-determination and that, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. The African Charter on Human and Peoplesʼ Rights refers to the right to self-determination as “unquestionable and inalienable”. The Working Group has consistently recognized that mercenarism and mercenary-related activities pose grave threats to the right of peoples to self-determination and to the peace and security of developing countries, particularly in Africa and in small Sates.

8. In the context of the Working Group’s mandate, a private military and/or security company is understood to be a corporate entity that provides, on a compensatory basis, military and/or security services by physical persons and/or legal entities. Military services include specialized services related to military action, including strategic planning, intelligence, investigation, land, sea or air reconnaissance, flight operations of any type, manned or unmanned, satellite surveillance, any kind of knowledge transfer with military applications, material and technical support to Armed Forces and other related activities. Security services include armed guarding or protection of buildings, installations, property and people, any kind of knowledge transfer with security and policing.

 II. Context of the visit

9. The Working Group undertook the visit to Ghana as part of its mandated activities to conduct in-situ visits to countries to better understand the situation regarding mercenary, mercenary-related activities and private military and security companies. The visit to Ghana was an opportunity for the Working Group to better understand how this country has remained stable in the midst of a region that has been challenged with armed conflicts in neighbouring countries. In this regard, Ghana has often been hailed as an “oasis of peace” and is quite exemplary in the way it has withstood the destabilising armed conflicts that has affected many of its neighbouring countries.

10. The Working Group also undertook the visit to further understand the situation of private military and security companies in the country. From 2013 to 2017, the Working Group undertook a global study on the national legislation for private military and security companies, covering 60 countries from all of the five regions of the United Nations. The first regional study undertaken in 2013 covered Anglophone Africa which included a brief review of Ghana. The visit thus provided an opportunity to clarify the findings of the research on Ghana. The Working Group is part of a human rights mechanism and as its name suggests, the group often assesses the impact of both mercenarism and private military and security companies on human rights, particularly the right to self-determination. Through the visit, the Working Group aimed to better understand the human rights issues revolving around mercenary-related activities and private military and security companies in the country and how the Ghanaian authorities could better address these.

 III. Overview

11. Understanding the security dimension of any country requires a good understanding of its political history. Throughout its visits, particularly within countries in the African continent where mercenary activities had occurred in the past, the Working Group has often observed a close link between the political development of a country, post-independence and events that have impacted the present day stability of a country. Ghana became independent from British rule in 1957, under the leadership of Kwame Nkrumah. The country then went through successive military and civilian governments.

12. Though some instances of violence have marred elections in Ghana, they have not been at the vicious levels witnessed in other countries in the continent. Post-1992 political transitions have mostly been stable and the country has been widely hailed as a strong democracy with functioning key institutions including a judiciary that is seen as independent. As an oasis of peace, the Ghanaians have a belief that though there are many ethnic and tribal groups present in the country, inter-marriage among ethnic and religious group and a strong culture of tolerance and acceptance has contributed significantly to the peace it has enjoyed since independence, contrary to some of its neighbouring countries. Ghana is also an economic powerhouse, having been dubbed as one of the fastest growing African economy. Along with its reputed political stability, Ghana continues to attract foreign investments and interests and economic growth is projected to continue.[[3]](#footnote-4) Ghana is also a country endowed with rich natural resources which include oil, gold and cocoa which bring in billions to its economy. Its extractive industry has also been an attraction for lucrative foreign investments.

13. With regard to human rights work, the Working Group was informed that there is space for robust civil society work on human rights issues in the country. Human rights defenders expressed that they generally do not fear deadly reprisals. The Working Group was also informed that during the preparation for Ghana’s report for the Universal Periodic Review (to the Human Rights Council) in Geneva, government representatives and civil society organizations collaborated for the first time to prepare the report – an unprecedented and welcomed initiative.

14. In addition, the Working Group observed that the media is generally able to freely and independently report on human rights issues without suppression from the government.

 IV. Legal framework

15. Ghana has ratified all of the core international human rights treaties, except for the Convention for the Protection of All Persons from Enforced Disappearance. It has also ratified the Rome Statute of the International Criminal Court, thus undertaking to uphold international obligations in respect of international crimes.

16. With regard to mercenaries, Ghana has yet to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. However, it has ratified the African Charter on Human and Peoplesʼ Rights and the African Union Convention for the Elimination of Mercenarism in Africa. Ghana is also a State Party to the Protocol Additional to the Geneva Conventions of 12 August 1949, related to the protection of victims of international armed conflicts (Additional Protocol I), which defines mercenaries and provides that they are not to be granted the right to be a combatant or a prisoner of war. There are no national laws in Ghana covering mercenarism.

17. The 1992 Constitution of Ghana guarantees the human rights of all individuals found within the territorial boundaries of Ghana. It also established a national Commission on Human Rights and Administrative Justice (CHRAJ), with a broad mandate to investigate complaints regarding human rights violations.

18. The private security industry in Ghana was regulated by the Police Act No. 350 of 1970 (the Police Act) which was superseded by the Police Service (Private Security Orgnisations) regulations 1992 Legislative Instrument 1571, and Police Services (Private Security Organization) (Amendment Regulations, 1994 (LI 1579). Private security companies are therefore licensed by the Interior Ministry under these regulatory frameworks

19. The Police Act provides that the Minister to whom responsibility for the Police Service is assigned by the Prime Minister (the Minister) may make regulations by legislation for the purposes of the following: - one, controlling the establishment and operations of any private security organization;[[4]](#footnote-5) two, requiring the registration of all private security organisations;[[5]](#footnote-6) three, regulating the conditions under which a private security organization may employ any person;[[6]](#footnote-7) four, regulating the use of uniforms by any private security organization;[[7]](#footnote-8) and five, prescribing fees and forms for any of the above purposes.[[8]](#footnote-9)

 V. Mercenarism and mercenary related activities

20. The Working Group was informed that mercenarism and foreign fighters are not significant problems in Ghana. In spite of the instability that the Western African region often faced, these phenomena have not threatened Ghana as much as some of its neighbours and the government has not placed any particular priorities on addressing mercenarism.

21. What is a potential threat, which several interlocutors highlighted, was that Ghana shares porous borders with certain neighbouring countries. The mass movement of persons and goods, including armed foreign actors, between borders in the region presents security challenges that is not only threatening to Ghana but to the region as a whole. Ghana, as a member of the ECOWAS with its free movement protocol, can be a vulnerable to threats of mercenarism and mercenary related activities given its close proximity to countries that maybe undergoing armed conflict or violence which involve these actors.

22. During the country visit of the Working Group to Côte d’Ivoire in 2014, it received allegations concerning mercenaries who were recruited to fight in the conflicts of 2002 and 2010 in Côte d’Ivoire and had fled to Ghana. These mercenaries were reportedly taking refuge in Ghana while at the same time reportedly orchestrating activities that were causing instability back in their home country.

23. During its visit to Ghana however, the Working Group was informed that these mercenaries had been dispelled from the country and that there were currently no significant threats concerning their activities or mercenarism in general. However, with its porous borders, the Working Group cautioned that mercenaries and foreign armed actors can easily enter Ghana and cause instability and this needs to be monitored closely.

24. There was some information received on alleged mercenaries who were brought in to train security personnel associated with the New Patriotic Party but the delegation was unable to get enough information on these individuals to confirm that these persons were indeed mercenaries. It appears that often opposing political parties in the past, have also made allegations of mercenary including in the 2012 election. The delegation was not able to obtain further information to corroborate these allegations.

25. Regarding foreign fighters, the Working Group was informed that at the time of the visit, there had been around three cases of Ghanaian citizens who had travelled to join groups such as ISIS, but that generally these cases were not in high numbers. With regard to threats of violent extremism, this was also deemed to not have reached a level that presented a significant threat to Ghana. However, several interlocutors expressed concerns that with the widespread availability of the internet, it was possible that certain individuals may become vulnerable to radicalisation that could potentially lead to violent extremism.

26. The Working Group also noted the high rate of youth unemployment and how this could also put young people at risk of radicalisation and violent extremism. In neighbouring countries, the threat of armed groups such as Boko Haram and ISIS is serious and this can also threaten stability in Ghana if these issues are not addressed effectively. The delegation met with a few civil society representatives who were working on countering radicalization and extremism. Such organizations worked directly with local community, youth groups and religious communities in addressing the root causes of violent extremism with the aim of mitigating factors that lead to terrorist recruitment and preventing vulnerable individuals from joining groups with terrorist ideals.

27. The Working Group commends these civil society organizations and their work. Programmes aimed at youths are critical given that they are a vulnerable group that is often targeted for recruitments. A research by a local organization working on countering extremism has shown that ethnic violence can become Ghana’s biggest source of instability and that such violence coupled with land conflicts can harden youths and may cause them to become susceptible to terrorist recruitment.[[9]](#footnote-10) During the mission, the delegation was informed of ongoing conflicts related to ethnic clashes and land issues in Northern Ghana. While noting that Ghana is largely peaceful, it is important to stabilise current conflicts that may have a destabilising effect on the rest of the country as well as on its youth population.

28. Ghana is a member of the Economic Community of West African States and the African Union which are two important fora that can potentially engage discussions on initiatives to safeguard against mercenarism and mercenary-related activities. Combatting mercenarism and any trans-border crimes require strong collaboration in the form of regional initiatives aimed at improving regional and national stability. The ECOWAS Protocol on Free-movement and Trans-border security is a platform that is conducive to better co-operation in which issues relating to strengthening protection against armed threats can be discussed. Strengthening border control and oversight of cross-border activities and employing a strategy to combat and prevent mercenarism, foreign fighters and armed threats would be beneficial to Ghana and other countries in the region.

 VI. Regulation of private security companies

29. The Working Group was informed that Ghana has mostly private security companies and not private military companies. As previously stated, Ghana has a regulatory framework governing private security organizations, via the Police Service (Police Security Organizations) Regulations 1992 (LI 1571) and Police Services (Private Security Organization) (Amendment Regulations, 1994 (LI 1579) and which are under the competency of the Ministry of Interior.

30. The Working Group notes that the Police Act lacks a lot of detail in so far as the management of the private security sector is concerned. Despite the existence of the regulations, the need to find a more comprehensive and adequate legislative instrument to consolidate the security of Ghana cannot be over emphasized. Of particular concern is that national legislation is silent on the use of firearms by private security service providers. It is also silent on what a private security service or private security provider is. Further, the only definition given by the Police Act is that of a “private security organisation”, which includes any organization which undertakes private investigations as to facts or the character of any person, or which performs services of watching, guarding, patrolling or carriage for the purpose of providing protection against crime, but does not include the Police Service, the Prisons service or the armed Forces of Ghana.”[[10]](#footnote-11) In the event of any doubt regarding whether or not an organization fits this definition, the Police Act provided that the Minister has the sole mandate to make a determination.[[11]](#footnote-12) The current law on PSCs is also silent on extraterritorial jurisdiction which is important as some companies may have transnational operations.

 VII. Proliferation of private security companies

31. The private security sector is a global multi-billion dollar industry that continues to expandworldwide. Some of the concerns regarding the industry is that it is profit-focused and in this sense, less concerned with respecting and protecting the human rights of individuals that it engages or impact. The growth in the industry means that private security and military companies find themselves operating trans-nationally throughout the world and have thrived in situations where there is conflict or violence and where their services are in need. Often, the rise of the operations of private military and security companies is also connected to the demand for greater security and where the national law enforcement agencies do not have the capacity to meet these demands.

32. Ghana has experienced urbanisation and incidences of criminal activities and violence which has contributed to a growth in the private security industry. The Working Group was informed by the Ghanaian authorities there were around 400 legally registered private security companies in the country with around a 450,000 personnel. Compared to the 33,000 members of the police force, the private security company figure shows that the industry has proliferated to a large presence in the country. There are no official records of companies that are operating illegally which implies that the real number of PSC operations is much higher. The Working Group was informed however, that there are over 1,900 companies operating illegally in the country. This certainly indicates the serious need to effectively regulate the sector to prevent it from undermining national security and to ensure private security personnel do not pose risks to human rights of the local population.

33. The proliferation of companies in Ghana may have been driven by many factors including the profit motive but also possibly due to the influx of global capital into sectors such as real estate. For example gated-communities, mining, marine and aviation, shopping malls and hotels.[[12]](#footnote-13) As expansions of these operations go beyond Accra and into different regions, the need for private security services increased. Most public law enforcement agencies are in greater number in urban areas and in the rural districts, private security companies are often needed to provide the needed security services.

34. The private security companies in Ghana provide mainly a range of services including security and patrol of private residential and public and private institutional buildings. Private security companies are also being used by mining corporations and extractive industry companies. Owners of private security companies must be Ghanaian and if there is a foreign owner, he or she must be in partnership with a Ghanaian in operating the private security firm. There was no real data on the number of Ghanaians working for private security companies overseas. However, there are some very prominent and multinational private security companies operating in Ghana, including G4S which operates in numerous other countries in the world and with dozens of operations in Africa. The majority of operations however, are smaller scale and are locally owned.

35. To assist in its oversight of the industry, the Ministry of Interior collaborated with the National Security to draw up a comprehensive list of registered private security organisations.[[13]](#footnote-14) It is also reported that since 2012, the Ministry of Interior has since embarked in the monitoring exercise on the existing organisations in order to ensure that their licenses are renewed and they continue to operate in Ghana.[[14]](#footnote-15)

36. The Working Groups commends the establishment of a unit with the Police Services that is specifically focused on private security companies, particularly aspects of its licensing, registration and oversight. This department comprises 10 regional liaison officers in Ghana which exchange information and oversee the issue of private security company operations and whose objective includes reining in illegal operators throughout the country. One of the requirements issued by the government in 2017 was for PSC personnel to be in uniform that will clearly distinguish them from public law enforcement agents.

 VIII. Need for stronger regulation and oversight

37. The Working Group observes that though some progress have been made to assist in the regulating the private security sector, there is still a serious need to establish an independent oversight body or mechanism to effectively oversee the industry and to ensure that their operations are in accordance to law and that they are not engaged in criminal activities or human rights abuses. Further, it is clear that in Ghana, while companies may be registered and licensed, the monitoring of company activities and performance is still weak.

38. In its visit the Working Group noted the lack of effective systems to oversee private security companies and encourages the Government to address this issue as a matter of priority. There is also a need to systematically vet company personnel and ensure they have proper training including on human rights. The delegation was informed that although there are specific activities that private security personnel are hired to perform, there are challenges in this as many personnel perform duties that are beyond their functions, even illegal activities in some cases. One interlocutor informed that some private security personnel have engage in thefts and harassment of those whom they were hired to protect, including sexually assaulting clients. Another informed that in a mall, a private security personnel stripped down a customer not fully understanding that this was not an authorised function for him to carry out. Private security personnel have also been reportedly hired in far-off places including agricultural plantations and so it is difficult to keep track of whether their conduct is in line with their job requirements. Private security personnel also have the power of arrest or to make citizen’s arrests but are not allowed to carry arms. Some carry tasers, batons and handcuffs. Tasers are used as a last resort and in specific cases. They are most commonly used in mining and industrial operations. However, as there is no real idea of the total number of PSC operation in the country (legal and illegal), there is no full understanding on the type of illegal activities that PSC personnel are engaged in throughout the country. There are thus real concerns about the disproportionate use of force by company personnel given the lack of training given to them on these issues.

39. In its discussion with private security operators, the delegation was informed that many private security personnel have basic education qualifications, some having never finished high school. A private security operator informed that it is highly challenging to retain personnel as there is a high turnover of people leaving due to the low remuneration. This means running a private security company can have high overheads and a level of uncertainty that creates a lot of financial risks for operators.

40. The likelihood and number of PSC personnel carrying arms and weapons, in contradiction to the law, is also not known. As many operations may be outside those being monitored by the authorities, this is a serious concern which the government is also aware of. Due to many of those operating illegally, it is likely that the number of PSC personnel in the country is much higher than what has been accounted for and measures are needed to effectively regulate these operations.

41. The lack of data and a systemised mechanism to track private security operations and their personnel needs to be addressed. The Working Group notes that out of all the registered PSCs, a few as two companies have signed up to the International Code of Conduct Association which obliges PSCs to abide by good practices including human rights principles. The presence of partially foreign owned PSCs are also common in Ghana and the Working Group encourages the vetting of these companies to ensure that they are also in good standing and do not involve individuals who have either criminal backgrounds or have committed human rights abuses.

42. The Working Group, in its discussions with various private security companies, was informed that training of personnel was not consistent. It is a task that the private security operator decide to implement themselves and the quality and depth of training is haphazard and not uniform among companies. The training module is reportedly also selected by the operator without conforming to any prescribed curricula or good practices. Training also carries financial costs and so operators are reluctant to invest much into this area given the high turnover of staff associated with these type of companies. As a result, some trainings are more comprehensive than others, while others involve the most minimum of trainings that do not necessarily take into account international human rights standards. The Working Group notes that the Kofi Annan International Peacekeeping Training Centre carries out training for the military, police and civilians involved in peace operations. Some of these trainings include human rights, countering violent extremism and various United Nations courses. It would be productive if similar trainings were regularly provided to private security personnel, particularly in light of the high number of staff that have basic education and are not fully aware of their obligations while on duty.

 IX. Positive Practices

 Association of Private Security Organizations in Ghana (APSOG)

43. The delegation met with members of the APSOG, an organization that was formed in 1998 with around 25 registered companies. Currently, it has around 350 members with the primary focus on the regulation of the private security industry. Currently, there are around 175 members who are paying subscription to the association. Members of APSOG are recognised by the Ministry of Interior as having fulfilled the requirement to operate legally in the country. The creation of APSOG as a voluntary association was to promote the interest of the industry and to ensure that members worked effectively with all stakeholders. It seeks to promote standardization of training within the private security industry and also to speak for the industry.[[15]](#footnote-16) However, APSOG is a voluntary association and membership is not compulsory. Further, it has no role in the licensing and renewing of the permits of PSCs. As a result, a few companies have joined as members of the APSOG. However, as members operate to ensure they fulfil the legal requirements for their services, the Working Group sees the association as positive initiative to bringing together the concerns within the industry particularly regarding illegal PSC operations and the need to strengthen oversight and monitoring of such companies.

 International Code of Conduct and the Montreux Document

44. The International Code of Conduct for private security providers and the Montreux Document are voluntary initiatives that have led to the improved standards across the private military and security industry. States and companies are encouraged to sign on to these initiatives as they provide good practices and support for robust regulations of private military and security companies. The ICOCA is the association which aims to promote, govern and oversee the implementation of the International Code of Conduct and to promote the responsible provision of security services and respect for human rights and national and international law. The Code comprises standards and principles for company personnel based on international human rights and humanitarian law standards, including the rules on the use of force and the second set of principles concern the selection, vetting and proper training of personnel.[[16]](#footnote-17) States, civil society and companies can become members of the ICOCA. Some States, such as Switzerland are requiring adherence to the ICoC or members of the ICOCA as essential qualification criteria for contracting or procurement policies.

45. In Ghana, Yutees Services Limited and LandMark Security Limited have taken the positive step of adhering to the ICoC and the Working Group commends these companies for this undertaking. Due to their membership, these two companies can provide security services to the Swiss Embassy in Ghana, an advantage they have over other companies. Their membership also indicates that they are willing to abide by positive standards and practices in the industry. However, the Working Group notes that many companies are likely to find membership challenging as the requirements often involve financial costs that may be considered cumbersome. Yet, the benefit of membership can vouch that the company is reliable and is of good standing in comparison to non-members.

46. The Montreux Document provides a set of good practices for operations of private military and security companies during armed conflict. States ratify the Montreux Document to reiterate that they are willing to adhere to their international legal obligations within the industry. Ghana has yet to sign both the ICoC and the Montreux Document and may wish to consider the benefits of being signatory in light of the growth in the private security industry in its home territory.

 Voluntary principles on security and human rights

47. Ghana is one of the few non-Western States to also sign on to the Voluntary Principles on Security and Human Rights which encourages companies to operate within a framework that respects human rights. Many companies around the world in the extractive industries have also implemented these Voluntary Principles.

48. Participating companies in the Voluntary Principles initiative are better able to align their corporate policies and procedures with internationally recognized human rights principles in the provision of security for their operations. In so doing, companies communicate to employees, contractors, shareholders, and consumers their commitment to the Principles: (1) through sharing of best practices and lessons learned with one another, and (2) by collaborating on difficult issues. Member organizations engage with companies and governments to promote adherence to and implementation of the Voluntary Principles through the development of strong corporate policies, practices and procedures. Affected populations are of paramount concern to NGOs who are best-placed to foster dialogue and collaboration between multiple stakeholders — including, most importantly, local communities — to ensure the successful implementation of the Voluntary Principles from the site level to the national level.

49. Various civil society organizations have also supported the implementation of the Voluntary Principles on Security and Human Rights (VPs) within Ghana and have programmes that support the formation and rollout of the Ghanaian VPs National Implementation Plan, build the capacity of an informed local civil society, particularly on critical human rights issues that impact both men and women, and to develop a sustainable multi-stakeholder forum that can collectively create the conditions necessary for effective VPs implementation.[[17]](#footnote-18)

50. Some civil society, run programs that focus on establishing local dialogue platforms in five regions of Ghana, where there have been hotspots of tension or violence between communities and the extractives sector. These areas include the Upper East region – where there is both industrial mining and small-scale artisanal mining; Brong Ahafo and Ashanti regions – home to large scale industrial mines; the Western region – featuring both mining and oil/gas operations; and the Volta region – where there is salt mining and oil/gas in the exploration stage. Ghana has a long history of gold mining, and since the discovery of the Jubilee field in 2010, its oil and gas sector has rapidly expanded. This has seen incidents of protests or communal violence which have been exacerbated by oil/gas or mining operations, including the deployment of security forces – for example, misconduct by private security guards, or alleged abuses by police or armed forces personnel.

51. Programmes run by civil society focus on issues in the private security sector and has brought together local actors with policy makers and practitioners, to form a national dialogue platform. This includes companies from the oil, gas, and mining sectors, communities, NGOs, local government ministries, foreign governments, and private security providers. During the three national forums that have been held, one of the major themes that emerged were the gaps in the private security sector. Some of the dialogue highlighted the inconsistent levels of quality among local security providers, the majority of whom do not meet international standards. This means many large extractives companies have limited options when tendering to local providers, as they don’t meet their procurement standards for aspects such as security and human rights. A lack of proper oversight, as well as inadequate training for private security officers – particularly on principles such as use of force– can increase the potential for human rights abuses.

52. Ghanaian private security providers are not authorized to carry firearms. Though this reduces the risk of escalation of force by private security personnel, it does mean that public security forces are often required to fill this gap. Reportedly, police and/or military units deployed to project operations, for example to protect gold shipments. These security arrangements can increase tensions with local communities, and in our experience, public security personnel are often more likely to be implicated in human rights abuses. One of the positive case studies that has been observed was in the Brong Ahafo region, where a private security company employs and trains local community members as security guards. They are not provided with any weapons or protective equipment – only a radio. Any potential issues are escalated to security management, and the high levels of training in mediation and community engagement mean that potential community or labor issues are deescalated through dialogue by the guards. This has reduced potential for violence, and human rights abuses, in the mining concession area.

53. Developing solutions through multi-stakeholder collaboration – between communities, NGOs, different government ministries and private security sector – has been crucial to highlighting some of these issues and identifying practical steps to form solutions. In the course of the forums that have been convened by civil society organizations such as Fund for Peace, recommendations and action items for the relevant Ghana Ministries have involved reforming private security licensing. Specifically, amending the private security provider regulations on licensing, to require compliance with tenets of security and human rights (such as vetting for past abuses, training on use of force, and ongoing monitoring). This will ensure that more local service providers can meet extractive company procurement standards in Ghana – promoting more local content – and increase the quality and training levels of security guards interacting with communities. The forums also produced action points on developing a standardized training on the core tenets of the VPs, through a recognized education institution, which can be used for training of security forces. Though the primary audience will be Ghana Armed Forces and Police, this curriculum is intended to be accessible to private security providers in the future. Leveraging initiatives to convene regular forums (such as the VPs) is a powerful way to bring policymakers and practitioners to problem solve constructively. This is particularly useful for tackling issues around private security sector reform, which often involve so many regulatory and operational level factors, and different constituencies.

54. These programmes provided a forum for representatives from the various regions to voice concerns and issues at a national level. It also represented an important opportunity for different communities, government stakeholders and mining, oil and gas companies to connect and share lessons learned and best practices.

 Guiding Principles on business and human rights

55. The Working Group noted that Ghana has a national policy on corporate social responsibility (CSR), which encourages the use of the Guiding Principles as the minimum benchmark for ensuring corporate responsibility and strengthening safeguards against human rights violations. The Working Group takes note of the value of implementing the Guiding Principles and building on best practices on human rights including within the Extractive Industries Transparency Initiative.[[18]](#footnote-19) The Working Group met with representatives of civil society who shared information on the human rights abuses within the extractive industry in which private security personnel are also employed to work in. Some of these challenges comprise human rights abuses in mining communities which include the displacement of peoples, the encroachment into family lands including cemeteries and burial grounds of family members, attacks and use of force against community members and pollution of water sources, to name a few. The Working Group sees the need to implement the Guiding Principles in conjunction with other positive initiatives to ensure against human rights abuses within the context of the extractive industry.

 The Extractive Industries Transparency Initiative

56. Ghana is a participant in the Extractive Industries Transparency Initiative (EITI) which is a global standard to promote the open and accountable management of oil, gas and mineral resources. It promotes commitment to encouraging high standards of transparency and accountability in public life, government operations and in business. Ghana is an EITI member since 2010. Its EITI status is considered as meaningful progress. The EITI reporting has highlighted gaps in the way the extractive sector is managed, leading to changes to the fiscal regimes governing the sector such as the introduction of capital gains tax, higher ground rent and fixed royalty rates. The Ghana Extractive Industry Transparency Initiative - GHEITI - is the Ghana subset of the global 35 initiative aimed at following due process and achieving transparency in payments by Extractive Industry companies to governments and government linked entities.

 X. Challenges to national stability

57. The Working Group took note of the presence of non-state armed actors that currently pose threats to security in Ghana. The Working Group underscores that these threats need to be addressed effectively to ensure long-term stability in the country and further protect against potential activities of mercenaries and mercenary related actors.

 Illegal miners or “galamsey”

58. The Working Group in its’ visit observed with concern, the existence of illegal miners or galamsey, which involves mostly small scale miners operating illegally in various parts of the country. With gold being one of the major resources in Ghana, illegal miners have become a serious concern to the past and current governments. This is particularly problematic to the Working Group as a number of these illegal miners are armed.

59. The experts were informed of persistent problems associated with illegal mining. Illegal mining exists in two main forms: mechanized mining carried out by local or foreign mining concerns; and artisanal mining carried out by *galamseys* (local gold miners). The experts were informed that the mechanized mining concerns extract gold from the ore in rivers and streams, thereby polluting the waterways with cyanide and other toxins. The experts also heard reports of violence associated with mechanized illegal mining on concessions granted to large-scale legal mines, including reports of armed illegal miners attacking and shooting unarmed mine security personnel, as well as instances in which illegal miners had been shot during police crackdowns. The Working Group encourages Ghana to integrate human rights with respect to the use of security forces in its response to the problem of illegal mining.

60. The Working Group was informed that foreigners also engaged in illegal mining and that many of these foreigners come from neighbouring countries and from other regions including Asia and Europe. The grave concerns regarding the environment as well as safety issues regarding armed illegal miners, prompted the Government to initiate Operation Vanguard composed of members of the police force and the military. The Working Group is concerned with the armed individuals involved in these illegal activities and the impact of these on local communities. It also recommends human rights training to be undertaken by the police and military personnel who are engaged in the extractive industry operations to ensure against human rights abuses. The Working Group was informed that some police and military personnel working with mining companies are required to undergo training including on the Voluntary Principles on Security and Human Rights.

61. The Working Group recommends that this should be replicated for those engaged in the operations against illegal mining and other criminal activities.

 Vigilante groups

62. An issue of serious concern involves the so called “vigilante groups” composed of youths and individuals affiliated with political parties in the country. The spread of these groups which are sometimes referred to as “foot soldiers” has resulted in incidences of violence during and after the past elections. The Working Group was informed that the existence of these groups dates back to the 1990s and today have become a serious challenge as they normally form groups or mobs and may become engaged in violence and human rights violations. In connection to the problem of vigilante groups, the use of private bodyguards by political representatives was also raised by various interlocutors as these private individuals are often armed. In accordance to Ghanaian law, no private security personnel can be armed and this would also extend to those working as bodyguards. However, there are many reports to say that this is not the case. The existence of these parallel groups or individuals in various parts of the country continue to be a threat to security and therefore strong political will to combat these activities, particularly the phenomenon of vigilante groups, is critical.

63. The Working Group was repeatedly informed that these vigilante groups can mobilise and also overpower local police as evident in an incident where they stormed a courtroom and freed suspects who were on trial, while at the same time threatening the presiding judge. The police who were present in the courtroom were outnumbered by the mob. The Working Group is concerned that there may be an issue of impunity concerning these vigilante groups as it was not privy to any information indicating cases in which these perpetrators were brought to justice in a court of law. It is further concerned that with its ability to create violence, that these groups, if not brought prosecuted for their actions, would have the potential to seriously destabilise parts of the country where they are concentrated. As one interlocutor warned, Boko Haram once began in a similar fashion, as a vigilante group that in time became the terrorist group that is, instigating atrocious crimes wherever it operates.

 Proliferation of illegal arms

64. The delegation was informed that around 1.3 million illegal arms are currently in circulation in Ghana and thus represents serious threats to security in the country. With the existence of vigilante groups, armed *galamseys* and the high number of private security personnel who may not be under the monitoring of the government, the need to effectively eliminate the proliferation of illegal arms should be prioritised. With the porous borders and conflicts in neighbouring countries, illegal arms in the hands of criminal elements can cause serious security problems for Ghana. The Working Group was informed that the smuggling of arms into Ghana through its borders is also a matter of concern. The Working Group urges that this problem be addressed effectively.

 Cross-border activities

65. The Working Group notes that Ghana has been a safe-haven for hundreds of thousands of persons seeking refuge from armed conflicts and atrocities in the region. Ghana, with its stability, has become home to many refugees and asylum seekers. However, with its porous borders and the free movement of people and goods, the Working Group cautions the Ghanaian authorities of the need to strengthen border monitoring, control and management. The Working Group has visited other countries in West Africa and has found that though free movement enhances co-operation, exchange and integration of people in the region, it can also be used for detrimental and destabilising activities, including mercenarism and foreign fighters. Without having effective monitoring and oversight of border movements, many foreign armed actors can taken advantage of the open borders to instigate criminal activities which can potentially lead to armed conflict. Among such movements are the illicit cross-border activities including organized criminal trade of arms and weapons, drugs and trafficking of persons, transhumance movement where armed herders have been known to be in violent conflict with local communities, and even the movement of mercenaries into the country from neighbouring territories. The situation of the mercenaries taking refuge in Ghana as mentioned in paragraph 23 during the Ivorian armed conflict is a testament of the need to ensure that the country does not become a safe haven from criminal armed actors as well. Strong co-operation within ECOWAS, African Union and with international organizations is necessary for implementing stronger border management.

 XI. Conclusion and recommendations

66. **The Working Group commends Ghana for being exemplary in maintaining stability in a region that has been destabilised by armed conflicts. Ghana, as an “oasis of peace”, has managed to maintain a functioning democracy and a strong economy in the midst of crises not only in West Africa, but throughout the whole continent. It has ratified the majority of the core human rights treaties, adopted many laws which are conducive to the promotion, respect and protection of human rights. However, it is critical that these laws are fully implemented to ensure continued peace and stability. The need for peace and stability is a critical priority as it can also continue to facilitate the economic growth that is currently taking place in the country. Mercenarism and mercenary-related activities such as foreign fighters are not current threats to Ghana. This is testimony of its stability and the strong democracy it has maintained over the past decades**.

67. **However, the peace and stability in Ghana cannot be taken for granted. Measures need to be employed to safeguard against mercenaries and mercenary-related activities. Often, these actors thrive in situations of unrest, political instability and armed conflict. It is therefore critical to maintain the stability that Ghana is experiencing and continue to strengthen laws and effectively enforce them, so as to strengthen protection of human rights and ensure security for the local population. Any unrest that can becomes protracted and risks becoming an armed conflict can result in mercenary activities taking root and proliferating, particularly given Ghana’s rich natural resources. This scenario has become too common among some of Ghana’s neighbouring countries which have fallen prey to mercenarism and foreign fighter activities. Threats such as Boko Haram and ISIS continue to exist and the vulnerable population in Ghana, particularly youth with its high unemployment can attract radicalizing and violent extremist elements.**

68. **Having strong regulations and oversight over the PSC industry and armed non-State actors and the strengthening of measures to combat mercenaries and foreign-armed elements will assist in ensuring that Ghana remains an “oasis of peace” in Africa. In spite of some of the challenges that have been identified in this report, the Working Group would like to encourage the continuation of this open and democratic culture that has contributed to the peace and stability enjoyed by Ghanaians today and have provided the following recommendations to assist in this endeavour**.

69. **Establish an independent and strong oversight mechanism to vet and monitor the activities of private security companies and keep a consistent record of data related to these companies.**

70. **Employ stronger actions to combat illegal operations of private security companies and private security company personnel.**

71. **Ensure that international human rights standards are incorporated into the training manuals of private security companies and that this becomes a standard requirement for licensing.**

72**. Ensure that private security personnel do not carry out functions that are exclusively for State security apparatus.**

73**. Consider joining the International Code of Conduct Association for Private Security Providers’ Association (ICoCA) and the Montreux Document Forum to in support of good practices and effective regulation of private military and security companies.**

74**. Implement the Voluntary Principles on Security and Human Rights.**

75**. Consider the use of the Guiding Principles on business and human rights as a minimum benchmark for ensuring corporate responsibility and strengthening safeguards against human rights violations, particularly in the context of the use of private security companies.**

76**. Strengthen public security force to address vigilante groups and other non-State armed actors, bring vigilante perpetrators of criminal acts and human rights violations to justice.**

77**. Provide training to public security personnel in relevant international human rights standards, including the Voluntary Principles on Security and Human Rights for those deployed to work in the extractive industries.**

78. **Encourage the full implementation of the National Identification System that will assist in capturing biometric data of Ghanaian citizens as this would assist in monitoring the inflow of potential foreign armed actors.**

79. **Strengthen ongoing cooperation with international and regional mechanisms, including ECOWAS, to combat mercenarism and mercenary-related activities.**

80. **Increase efforts with ECOWAS and neighbouring countries to tighten border control and management to safeguard against mercenaries, foreign fighters and foreign armed elements including those engaged in illegal mining activities.**

81. **Increase efforts to end the proliferation of arms and weapons in the public domain.**

82. **Ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.**

83. **Consider developing national legislation to criminalise mercenarism and mercenary-related acts.**

1. \* The present report was submitted after the deadline in order to reflect the most recent information. [↑](#footnote-ref-2)
2. \*\* Circulated in the language of submission only. [↑](#footnote-ref-3)
3. Star of Africa in 2018 Lenders’ Economic Forecasts Is Ghana, accessible at [www.bloomberg.com](http://www.bloomberg.com). [↑](#footnote-ref-4)
4. S 38(a) of the Police Act. [↑](#footnote-ref-5)
5. S 38(b) of the Police Act. [↑](#footnote-ref-6)
6. S 38(c) of the Police Act. [↑](#footnote-ref-7)
7. S 38(d) of the Police Act. [↑](#footnote-ref-8)
8. S 38(e) of the Police Act. [↑](#footnote-ref-9)
9. Research carried out by the West Africa Centre for Counter Extremism (WACCE). [↑](#footnote-ref-10)
10. S 38(2) of the Police Act. [↑](#footnote-ref-11)
11. S 38(3) of the Police Act. [↑](#footnote-ref-12)
12. Owusu et al, *An assessment of households’ perceptions of private security companies and crime in Ghana,* (2016), Crime Science at <https://idl-bnc-idrc.dspacedirect.org/handle/10625/56673>. [↑](#footnote-ref-13)
13. Ibid. [↑](#footnote-ref-14)
14. Ibid. [↑](#footnote-ref-15)
15. op. cit., Owusen *et al*. [↑](#footnote-ref-16)
16. [www.icoca.ch](http://www.icoca.ch) [↑](#footnote-ref-17)
17. [Ibid](http://library.fundforpeace.org/library/201011604-ghanavpsupdate.pdf); organizations such as Fund for Peace in partnership with West Africa Network for Peacebuilding (WANEP) [↑](#footnote-ref-18)
18. Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises – Visit to Ghana, A/HRC/26/25/Add.5. [↑](#footnote-ref-19)