

# The market for force and force-related services in Latin America and the Caribbean: The impact on human, national, and regional security

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## Executive summary

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In Latin America and the Caribbean, private military security companies (PMSCs) as well as mercenaries have profited from various contexts of insecurity including armed conflicts, criminality, and humanitarian crises. Due to the fact that they are often armed, and the types of services that they provide (especially in the case of mercenaries), there are serious questions as to what this means for human, national, and regional security.

Through new empirical research that extracts information from thousands of articles, this policy brief traces PMSCs as well as mercenary activities over more than four decades and provides an informative analysis on these actors. Its aim is to support LAC governments, multilateral organisations and civil society in developing and strengthening regulation and oversight in order to reduce these security risks.

The key findings from this data research and analysis are:

- While mercenary activities have decreased in the region, they are still active, in particular in the Andes, Central America and Mexico working mainly with drug cartels or political-criminal groups.
- PMSCs have increased their presence in the region and moved towards 1) supporting governments in their fight against criminal armed actors or political-criminal groups, 2) assisting governments and international organisations in humanitarian settings such as in Haiti and 3) providing extractive companies with protection services.
- Both PMSCs and mercenaries raise a number of challenges related to human, national, and regional security, however the types of risks differ.
- Advances in regulations and norms have had a restraining effect on PMSCs. The implications on mercenaries are less clear.

## About the author

Dr. Charlotte Penel completed her PhD in 2021 at the University of Liverpool on private military and security companies and mercenaries in Latin America and the Caribbean. She is currently an independent research consultant on international security with a focus on non-state armed actors, as well as climate security. This policy brief is based on her PhD thesis.

Based on these findings, this policy brief recommends the following to national and regional stakeholders:

- Express support for the Montreux Document and the International Code of Conduct for Private Security Providers.
- Utilise platforms in LAC regional organisations that could serve as a space to tackle common challenges on mercenary activities and PMSCs operating in the region.
- Apply the Montreux Document to the Inter-American System of Human Rights's rulings to regulate PMSC and mercenary activities.
- Prohibit mercenary activities in domestic legislations and include meaningful enforcement mechanisms.
- Implement domestic regulations that not only refer to security services but also military services.
- Refer to international human rights and humanitarian laws and include monitoring and compliance measures in national PMSC regulations.

## Introduction

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In Latin America and the Caribbean (LAC), the private security industry has grown for decades. The everyday services it provides are the subject of a variety of analysis.<sup>1</sup> In contrast, there is sparse systemic information on the provision of force and force-related services by private military and security companies (PMSCs). The same goes for mercenaries, which have also been active in multiple countries in the region.<sup>2</sup>

The foci adopted in this brief regarding PMSCs and mercenaries are based on the Latin America and Caribbean Commercial Military Security Actors (LACCSMA) dataset developed at the University of Liverpool. The dataset defines PMSCs as private business entities that provide force and force-related services, such as military or security consultancy, training to local security or armed forces, intelligence, or security work, irrespective of how they describe themselves. They are legally registered local or international companies and work for financial compensation. In addition, they are not an integral part of the armed forces or the police. For the purposes of the present brief, PMSCs thus do not include everyday security provisions such as protection services for supermarkets, gated communities, and local businesses of which there is a very large market in the region. As such, all private and commercial clients with the exception of extractive companies<sup>3</sup> are excluded from analysis.<sup>4</sup>

As per the dataset definition, mercenaries also work for compensation, provide comparable services, and are not part of the armed forces or the police. They are, however, individuals or groups of individuals that are not legally registered and are foreign to the country in which they

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<sup>1</sup> See for example Arias, P. (2009) *Seguridad Privada en América Latina: El lucro y los dilemas de una regulación deficitaria*. Santiago, Chile; Bacouillard, R., Guerrero, C. D. and Bustamente, J. (2014) 'Proliferación de armas y violencia armada en el sector de la seguridad privada en América Latina y el Caribe: Desafíos y oportunidades para la acción', *Revista Policía y Seguridad Pública*, 4 (2), pp. 31–79; Bryden, A. et al. (2016) 'Armed Private Security in Latin America and the Caribbean: Oversight and Accountability in an Evolving Context', DCAF and UNLIREC. Geneva, Switzerland; Caonero, F., Godnick, W., Fernández, S., Bustamante, J. and Natenzon, S. (2011) 'Control and Regulation of Private Security Providers in Latin America and the Caribbean: A Comparative Analysis', *Revista Policía y Seguridad Pública*, 1, pp. 187–266.

<sup>2</sup> For literature on PMSCs in Latin America see for example, Hobson (2014) 'Privatising the war on drugs', *Third World*

*Quarterly*, 35:8, 1441-1456; Perret, A. (2009) *Las Compañías Militares y de Seguridad Privadas en Colombia: Una Nueva Forma de Mercenarismo?* Bogota, Colombia: Universidad Externado de Colombia; Perret, A. (2014) *The Role of the Inter-American System of Human Rights in the Regulation of Private Military and Security Companies (PMSCs) in Latin America*. European University Institute.

<sup>3</sup> Due to the history of rebel groups and political-criminal groups targeting extractive companies and consequently PMSC services to these companies, this category has been included.

<sup>4</sup> Additionally, as a precautionary measure, due to the large market of private security companies in the region, cases with both unknown clients and consumers are also excluded from the analysis.

operate. As such they are neither volunteers, paramilitaries, rebels, nor criminal groups.

This policy brief is designed to map out PMSCs and mercenary activities as well as the implications they have on human, national, and regional security. The objective is to provide informative empirical evidence, analysis, as well as recommendations that help Latin American governments, multilateral organisations and civil society in the region develop and strengthen regulation and oversight of these actors.

## Findings on PMSCs and mercenaries

This section highlights the national, sub-regional and regional trends on the presence and activities of PMSCs and mercenaries in the LAC region by using the newly developed LACCSMA dataset.<sup>5</sup> This dataset records any force or force-related 'exchange events' in LAC countries that experienced an armed conflict between 1980 and 2016, in at least one year.<sup>6</sup>

### MAIN EMPIRICAL FINDINGS ON MERCENARIES

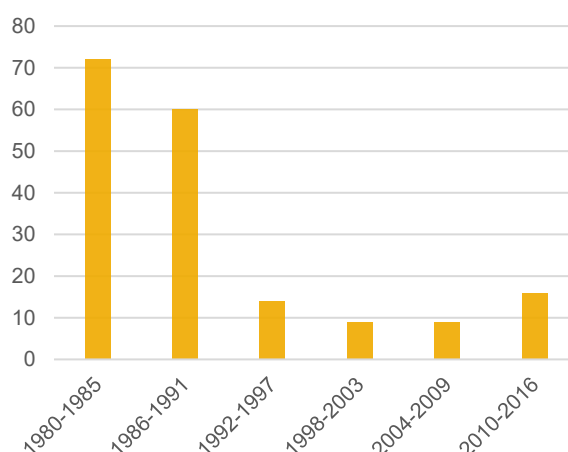
#### The demand side

As mercenaries are not formally registered and often work for armed opposition or criminal groups, capturing information on their whereabouts and activities is not always easy. For this reason, information on these actors is limited. The LACCSMA dataset, however, provides new insights into mercenaries in the LAC region, collecting 180 exchange events<sup>7</sup> from 1980 to 2016, which represents 20.0% of the analysed events.

Although their presence is minor in comparison to PMSCs, mercenaries were found to be present in the majority of investigated LAC countries (66.7%). The largest concentration of mercenaries was

found in Colombia, El Salvador, Mexico, and Nicaragua, while there were only limited cases of mercenary presence in Haiti, Peru, Suriname, and Venezuela. Mercenaries have thus been mostly concentrated in the Andean region and Central America. As illustrated in Figure 1, mercenaries were particularly active during the Cold War period in the 1980s, with 71.8% of events from this one decade. However, they did remain present in the region in subsequent decades.

**Figure 1**  
Timeline of the number of mercenary exchange events from 1980-2016



In terms of the types of **clients** who sought mercenary services (i.e. the actors paying them), the dataset shows that most demand came from non-state armed groups (63.2%), mostly drug cartels operating in Colombia and Mexico. Other clients include non-state armed groups such as the 'Soldiers of Fortune' and the 'Civilian Military Assistance' who recruited mercenaries in the 1980s to fight against communist governments and rebel groups in El Salvador and Nicaragua.

The second largest client were political opposition groups with 15.1% of exchange events, and more specifically rebel groups such as the Farabundo Martí National Liberation Front (FMLN) in El Salvador and the Contras in Nicaragua. This was followed closely by foreign governments at 12.3%, which all relate to the U.S. government's intervention in Nicaragua. Lastly, national

<sup>5</sup> The LACCSMA dataset is derived from the Commercial Military Actors in Armed Conflict Dataset (CMAD), however there are some differences in the two datasets. For more information on the CMAD see Petersohn, U., Gottwick, V., Penel, C., and Kellgren-Parker, L. (2022) 'The Commercial Military Actor Database'. *Journal of Conflict Resolution*, 66 (4-5): 899-923.

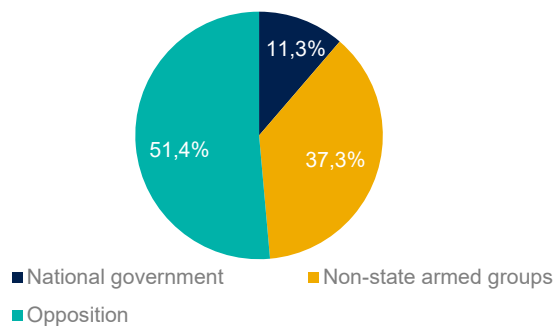
<sup>6</sup> This applies to twelve LAC countries for a total of 893 exchange events, which are Colombia, El Salvador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Venezuela.

<sup>7</sup> An exchange event is a commercial interaction where one actor receives a service from another actor in exchange of compensation.

governments also hired mercenaries (8.5%), which mostly occurred in El Salvador during the civil war.

A slightly different picture emerges however when looking at the types of consumers, as opposed to the client. The consumer is the actor that effectively uses the service provided. For example, while the U.S. government may have hired mercenary services in Nicaragua during the civil war, the services were provided for rebel groups, in other words, the consumer. As illustrated in Figure 2, while non-state armed groups were the largest client group, the largest consumer was the political opposition. This is because it was not only the opposition that financed mercenaries: foreign governments and non-state armed groups also hired mercenaries to support rebel groups during the conflicts. Moreover, in some cases, the type of client was unknown. With these armed conflicts ended by the mid-1990s, the number of mercenaries operating in the region decreased. At the same time, mercenaries moved away from engaging with the opposition and governments and instead began working quasi-exclusively for criminal groups.

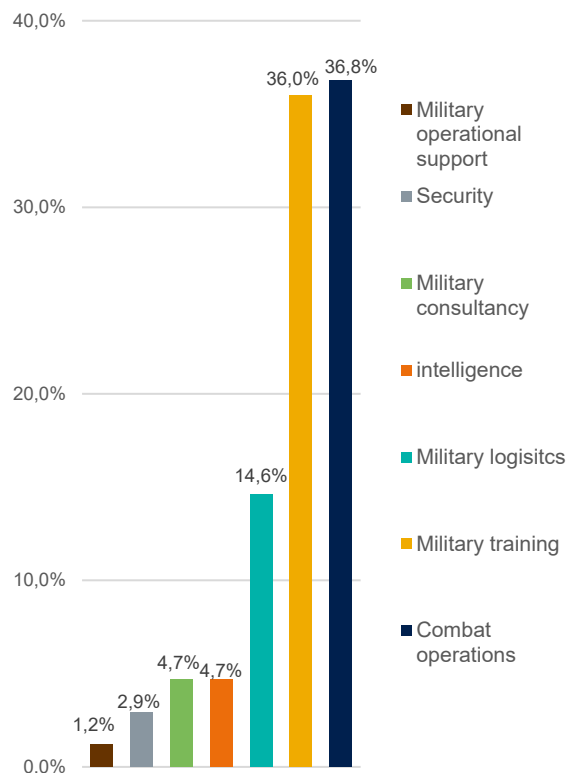
**Figure 2**  
Percentage of mercenaries according to types of consumers



As made evident from Figure 3, mercenary services have been mostly linked to the military as opposed to security services. For example, a group of Israeli mercenaries trained the Mexican Los Zetas group to survive in the jungle, in torture and killing techniques, and to use different weapons.<sup>8</sup> Furthermore, a large percentage of the services provided by mercenaries are at the ‘tip of the spear’<sup>9</sup>, that is, tasks oriented towards the front of the conflict such as combat operations, as opposed

to services that are not directly engaged in the conflict.

**Figure 3**  
Percentage of mercenaries according to types of services



<sup>8</sup> Information attained through anonymous source, June 24, 2019.

<sup>9</sup> Singer, P. W. (2003) *Corporate Warriors: The Rise of the Privatized Military Industry*. New York, USA: Cornell University Press.

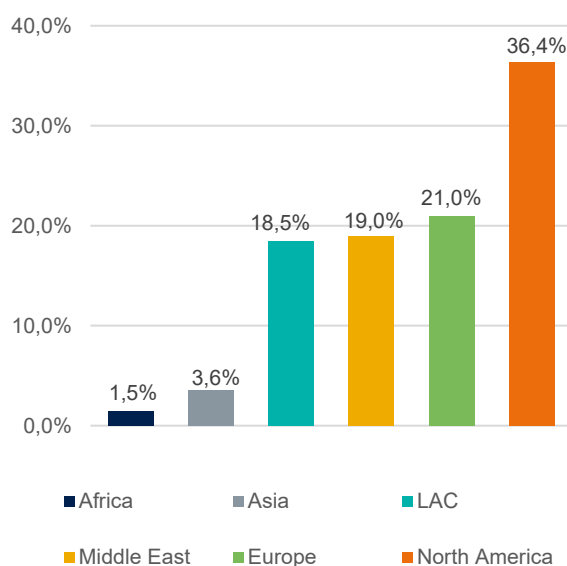
## The supply side

During the Cold War, most of the armed conflicts were ideological in nature, involving insurgencies and counterinsurgencies.<sup>10</sup> Many mercenaries that were active during this period were not just motivated by material gain, but were consciously choosing which side to align themselves with, based on their ideological beliefs such as anti-communism or pro-communism. This environment meant that in many of the LAC countries, there was a supply of mercenaries willing to work for either the State or rebel actors. As one mercenary stated, 'the main reason for going there is to fight communism, but also to seek adventure and earn money'.<sup>11</sup> Due to the end of the armed conflicts and change in mercenary demand, these ideological connections have now largely disappeared.

Many mercenaries working in the LAC region had military experience either by previously serving in armed forces and/or by working in numerous conflict settings. For example, many of the Cuban American mercenaries fighting in Central America were Bay of Pigs veterans,<sup>12</sup> while in Colombia former SAS soldiers were working for the drug cartels.<sup>13</sup> In Mexico, many of the mercenaries working for Los Zetas or more recently the Jalisco Nueva Generación cartel were ex-Colombian soldiers<sup>14</sup> or former Israeli Mossad agents.<sup>15</sup> Lastly, as highlighted in Figure 4, the majority of mercenaries have come from the U.S., Europe (mainly the U.K.), Israel, and the region itself (in particular Colombia). There were also a minority of mercenaries from South Africa and Australia.

Figure 4

Percentage of mercenaries from each region



<sup>10</sup> Arnson, C. J. (2012) 'Introduction: Conflict, Democratization, and the State', in Cynthia J. Arnson (ed.) *In the Wake of War: Democratization and Internal Armed Conflict in Latin America*. Chicago: Stanford University Press, pp. 1–34.

<sup>11</sup> Bonilla, O. (1983) 'Nicaragua charges U.S. warships cruising offshore', *United Press International*, March 30.

<sup>12</sup> The Washington Post (1986) 'Bay of Pigs Survivors Find Common Cause with Contras'. October 26. Available at: <https://www.washingtonpost.com/archive/politics/1986/10/26/bay-of-pigs-survivors-find-common-cause-with-contras/e386653b-4a4e-4e27-9414-bf95b4e0e8bc/>; Wilkinson, T. (1986) 'Two Cuban mercenaries trained in El Salvador, Costa Rica', *United Press International*, June 25. Available at: <https://www.upi.com/Archives/1986/06/25/Two-Cuban-mercenaries-trained-in-El-Salvador-Costa-Rica/6793520056000/>

<sup>13</sup> Camilleri de Castanedo, I. (2021) 'British Mercenaries and Colombian Cartels', *Grey Dynamics*, April 16. Available at: <https://greydynamics.com/british-mercenaries-and-colombian-cartels/>; Lockley, M. (2020) 'The day Birmingham SAS hero was hired to kill drugs lord Pablo Escobar.' *BirminghamMail*, March 15. Available at: <https://www.birminghammail.co.uk/news/midlands-news/day-birmingham-sas-hero-hired-17912309>

<sup>14</sup> Ramsey, G. (2011) 'Zetas Trained by Former Colombian Special Forces'. *Insightcrime*, October 17. Available at: <https://insightcrime.org/news/analysis/zetas-trained-by-former-colombian-special-forces/>

<sup>15</sup> Information attained through anonymous source, June 24, 2019.

## MAIN EMPIRICAL FINDINGS ON PMSCs

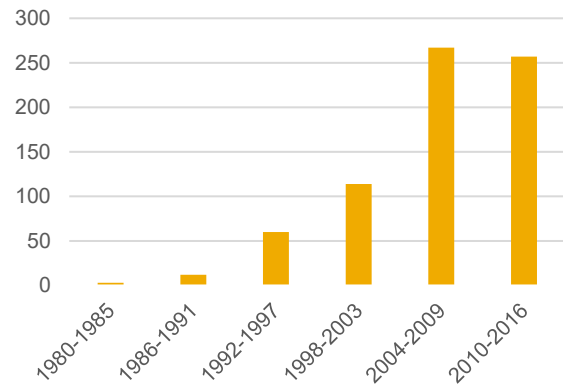
Similarly, to mercenaries, PMSC activities can be quite elusive, as they typically do not advertise their work and are often under private contractual agreements. Despite these challenges, a significant amount of data has been collected from the LACCSMA dataset, which unearths information on their location, services, clients, and consumers, as well as information on the companies themselves. A total of 713 PMSC exchange events were found in the LAC region, which is 80.0% of the analysed exchange events.

Unlike mercenaries, PMSCs have experienced significant growth in numbers in the region. In the 1980s there were very few PMSCs, and they were concentrated in Central America. For example, UK-based Keenie Meenie and Eagle Aviation Services and Technology Inc. both supported the Nicaraguan Contras rebel group.<sup>16</sup> In the 1990s however, PMSCs increased their presence, as they expanded from armed conflicts in Central America and Colombia to working for U.S. drug eradication programmes in Colombia, Guatemala, and Peru, as well as providing protection for extractive companies in Colombia, Guatemala, Peru, and Venezuela.

As illustrated in Figure 5, the 2000s saw the biggest jump in PMSCs, with activities in 75% of the countries investigated. The U.S. intensified its drug eradication programme in Colombia and extended it to Mexico; PMSCs were sent to Haiti to secure the humanitarian assistance effort; and governments began to use PMSCs for the protection of dignitaries and persons under threat.

Figure 5

Timeline of number of PMSC exchange events: 1980 to 2016



By far, foreign governments were responsible for the majority of PMSCs **contracted** in the region (73.4%). This was done particularly by the U.S. government (66.2% of all foreign government contracts) within U.S. counter-drug assistance programmes ('war on drugs') such as through the Merida Initiative in Mexico and Plan Colombia, which in some cases also branched out into anti-guerrilla assistance programmes. There have, however, also been cases of national governments hiring PMSCs (14.4%) for counter-drug or guerrilla programmes, such as the Israeli PMSC Global CST fighting against the Sendero Luminoso in Peru and the FARC in Colombia.<sup>17</sup>

A large percentage of the work was in humanitarian contexts related to the UN Stabilization Mission in Haiti (MINUSTAH), where several PMSCs were tasked with supporting the Haitian police in improving overall security, as well as ensuring security for EU, UN and U.S. personnel. Lastly, there was a considerable number of extractive companies that were hiring PMSCs for security services such as protection and consultancy, but also military work. Examples include training Colombian police in military-type operations against guerrilla attacks, as well as military logistical services or intelligence work for oil companies.

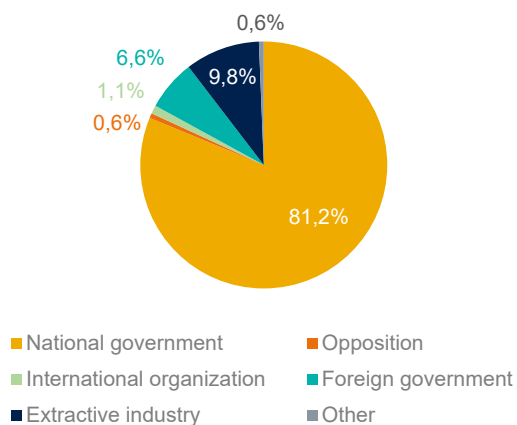
<sup>16</sup> Bustos, A. (2011) 'U.S. waging secret war in Colombia, critics claim: And Canada's involved.' *The Gazette*, June 18.

<sup>17</sup> Although this is not one of the 12 countries examined in the dataset, Global CST was also working for the Honduran government.



Although the largest PMSC client was the U.S. government, the majority of PMSC consumers were national governments (see Figure 6). Only on a much smaller scale have PMSCs been directly assisting the U.S. government in the region such as supporting U.S. military personnel through military operational support and intelligence work. There were also a small number of PMSCs who worked to benefit extractive companies, rebel groups, international organisations, and 'others', including humanitarian aid workers such as non-governmental organisations.

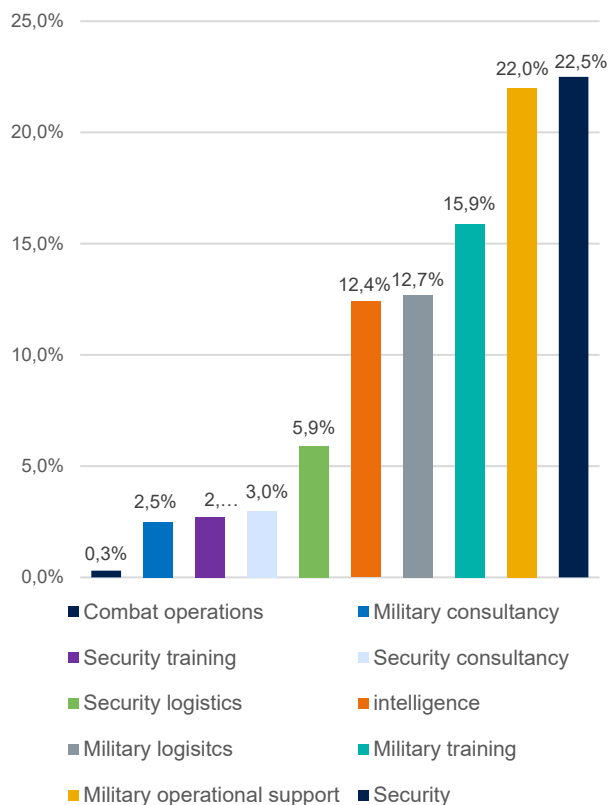
**Figure 6**  
Percentage of PMSC events according to types of consumers



As reflected in Figure 5, in contrast to mercenaries, PMSCs have been mostly providing indirect military and security support as opposed to 'tip of the spear' combat operations (tip of the spear operations by PMSCs have been limited to their support for rebel groups and even in this category it is a minority). In general, this includes:

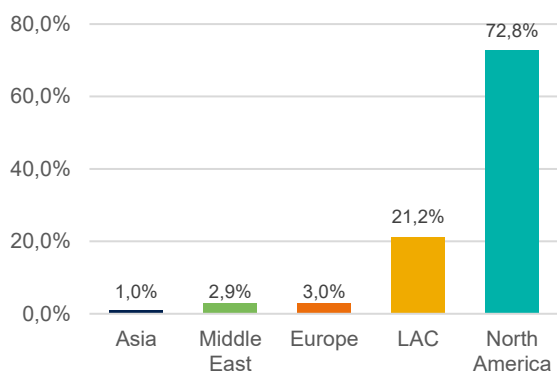
- training, military operational support, and logistics support to the police or armed forces in Colombia, Guatemala, Mexico, and Peru.
- supporting the Haitian police through consultancy, training, logistics, and security services to UN personnel.
- security, consultancy, and intelligence operations to extractive companies and national governments.

**Figure 7**  
Types of services provided by PMSCs in percentage)



As most of the contracts were related to the U.S. counter-drug assistance programme, the majority of PMSCs have also come from the U.S, which is reflected in Figure 6. There has also been a tendency for the U.S. government to repeatedly contract the same U.S. PMSCs for the 'war on drugs'. For example, in Colombia in the 1990s, almost all U.S. contracts as a part of Plan Colombia were awarded to DynCorp, while in Guatemala, based on the dataset, from 1991 to 1996, DynCorp was the sole PMSC contracted for aviation support services. Although the contract base has broadened, there has still been a relatively small pool of U.S. PMSCs in the market working for the U.S. government. The effect of this has been, on the supply side, a U.S. oligopoly in the regional PMSC market and, on the demand side, an American monopsony. The second highest number of PMSCs were from the LAC region, which has mainly been linked to the extractive industry, as well as some governmental contracts.

**Figure 8**  
Percentage of PMSCs from each region



Lastly, similarly to mercenaries, many of the PMSCs that are in the LAC region were established by former soldiers, such as Defense Systems Limited, Military Professional Resource Inc, DynCorp, and Global CST. This also includes many of the personnel: for example, 20% of Northrop Grumman personnel are ex-soldiers and more than 1,600 are reservists.<sup>18</sup>

## Analysis of key findings

The previous chapter highlights how the provision of PMSCs services as well as mercenary activities have evolved in the LAC region since the 1980s, as changing conflict dynamics have resulted in changing demand. Despite advances in international norms and good practices, challenges persist regarding the impact of PMSCs as well as mercenaries on human, national, and regional security. The present chapter will delve into three key findings related to these challenges that lay the groundwork for subsequent recommendations.

## KEY FINDING 1: CONFLICT DYNAMICS HAVE CHANGED AND SO HAS THE CORRESPONDING DEMAND FOR SERVICES PROVIDED BY PMSCS AND MERCENARIES

During the Cold War, many countries in the LAC region were affected by an 'old violence', the purpose of which was to maintain state and elite power.<sup>19</sup> This old violence, occurring from the 1960s to the early 1990s, was tied to various authoritarian or military regimes and armed conflicts in the Southern Cone, the Andean region, Central America, and the Caribbean. Since the 1990s, this 'old violence' has been replaced by various types of insecurity, where there are high levels of crime with an increasing number of homicides.<sup>20</sup> Although there has been a decrease in state violence towards citizens, non-state violence in terms of criminal activity has increased.<sup>21</sup>

The repercussions of these changes are that PMSCs services and mercenary activities have shifted according to demand: from a context of authoritarianism and/or armed conflicts to that of insecurity from criminal groups and drug cartels. The levels of violence and insecurity, however, are not uniform across the region as there are significant differences between Southern Cone countries, which experience lower levels of violence to that of other sub-regions such as Central America.

For mercenaries, this has led to a switch from supporting state governments and rebel groups in armed conflicts to working for drug cartels and political-criminal groups such as the FARC and Los Zetas. As most of the drug trafficking and violence has been centred in the Andean region, Central America and Mexico, mercenary activities have similarly been concentrated in these regions and less in the Southern Cone. Under this same context, PMSCs have moved away from working for both state governments and rebel groups in armed conflict settings, but have become more intertwined with: 1) supporting governments in their fight against criminal armed actors or political-

<sup>18</sup> Northrop Grumman (N/A) 'Veterans: Life at Northrop Grumman'. Available at: <https://www.northropgrumman.com/careers/life-northrop-grumman/veterans-and-military/>

<sup>19</sup> Koonings, K and Kruijt, D (2004) 'Armed Actors, Organized Violence and State Failure in Latin America: A survey of Issues and Arguments', in Koonings, Kees and Kruijt, Dirk (eds) *Armed Actors: Organized Violence and State Failure in Latin America*. New York, USA: Zed Books.

<sup>20</sup> Davis, D. E. (2010) 'The Political and Economic Origins of Violence and Insecurity in Contemporary Latin America: Past Trajectories and Future Prospects', in Arias, E. D. and Goldstein, D. M. (eds) *Violent Democracies in Latin America*. Durham and London, UK: Duke University Press.

<sup>21</sup> Ungar, M. (2007) 'The Privatization of Citizen Security in Latin America: From Elite Guards to Neighborhood Vigilantes', *Social Justice*, 34 (3-4), p.24



criminal groups, in particular in Colombia, Mexico, and Peru in the U.S. war against drugs, 2) assisting governments and international organisations in humanitarian settings such as in Haiti, and 3) providing extractive companies with protection services. In addition, there have also been recent reports of the Russian PMSC Wagner Group working for the Maduro government since 2018 to protect it from opposition attacks in Venezuela.<sup>22</sup>

## KEY FINDING 2: PMSCS AS WELL AS MERCENARIES CONTINUE TO POSE A NUMBER OF CHALLENGES FOR HUMAN, NATIONAL, AND REGIONAL SECURITY.

While the conflict dynamics and the services provided by PMSCs and mercenaries have changed, and the number of mercenaries working in the region has decreased since the 1990s, both types of actors remain active in the region, and there are still cases of human rights abuses or illegal activities that negatively affect human, national, and regional security.

While memories of the 1990 assassination of a leading Colombian presidential candidate by gunmen trained by mercenaries and Yair Klein<sup>23</sup>, (a former Israeli military officer who provided military services to paramilitary groups and drug lords in Colombia in the 1980s and early 1990s) who was operating under the façade of a PMSC<sup>24</sup> have receded into the past, events such as these, although rare, have not disappeared. The assassination of the President of Haiti, which implicated a group of Colombian contractors, most of whom were former soldiers trained to

international standards<sup>25</sup> has had serious human and national security repercussions. This includes a void of government authority and increasing political instability, as well as a surge in gangs and criminal violence, further weakening government control and generating spill over effects for other parts of the region. This has included increased migration to Central America and Mexico, often in an attempt to reach the U.S.<sup>26</sup>

There have also been some concerns on possible human rights abuses linked to PMSCs operations. For example, in Colombia, between 2003 and 2007 several PMSC personnel were involved in the rape of minors,<sup>27</sup> while in Peru, as a part of the CIA anti-drug programme, a PMSC directed the Peruvian air force to target a plane that ended up killing two civilians, one of which was a baby.<sup>28</sup> Moreover, in Mexico, under the Merida Initiative, a program focused on combatting drug trafficking, in 2008 PMSCs were found to be training elite Mexican police in torture tactics.<sup>29</sup> Lastly, there are examples of PMSCs working for extractive companies in Guatemala committing human rights abuses, such as in the case where PMSCs attacked and killed several Qeqchi farmers in 2011.<sup>30</sup>

PMSCs can also have negative national security ramifications, by reducing state control and monopoly of force and undermining the credibility of the justice system. One of the reasons for this is that PMSCs have often fallen under immunity agreements. For example, both Plan Colombia and the Merida Initiative, the latter of which was in force until 2021<sup>31</sup>, U.S. PMSCs held immunity from Colombian and Mexican prosecution, which has meant that they cannot be detained or arrested and

<sup>22</sup> Roth, A. (2019) 'Russian mercenaries reportedly in Venezuela to protect Maduro'. *The Guardian*, January 25. Available at:

<https://www.theguardian.com/world/2019/jan/25/venezuela-maduro-russia-private-security-contractors>.

<sup>23</sup> The case of Yair Klein and his company 'Hod Hahanit' also illustrates the sometimes blurry line between mercenaries and PMSCs. Hod Hahanit was a legally registered company, however the company was denied a licence to operate in Colombia. It is therefore assumed that given the rejection, he acted independently of the company, entering as a mercenary.

<sup>24</sup> Farah, D. (1990) 'Colombian Israeli aided assassins'. *The Washington Post*, August 17. Available at: <https://www.washingtonpost.com/archive/politics/1990/08/17/columbian-israeli-aided-assassins/23700cb8-d82f-46fc-abab-1548ae67fed1/>

<sup>25</sup> Devereaux, R. (2021) 'At least seven Colombians in Haiti assassination received U.S. training'. *The Intercept*, July 17. Available at: <https://theintercept.com/2021/07/16/haiti-assassination-colombia-us-military/>

<sup>26</sup> Angelo, P. and Gevarter, D. (2021) 'The assassination of Haitian President Jovenel Moise: What to know.' *Council on Foreign Relations*, July 14. Available at: <https://www.cfr.org/in->

[brief/assassination-haitian-president-jovenel-moise-what-know](https://www.cfr.org/in-brief/assassination-haitian-president-jovenel-moise-what-know); Associated Press (2022) 'A year after the president's assassination Haitians endure a broken nation or flee'. *NPR*, July 7. Available at: <https://www.npr.org/2022/07/07/1110257719/haiti-assassination-president-jovenel-moise-anniversary-gangs-refugees>

<sup>27</sup> Perret, A. (2009) *Las Compañías Militares y de Seguridad Privadas en Colombia: Una Nueva Forma de Mercenarismo?* Bogota, Colombia: Universidad Externado de Colombia.

<sup>28</sup> Risen, J. (2001) 'Officials Long Debated Risks of Anti-Drug Patrol in Peru'. *New York Times*, May 22. Available at: <https://www.nytimes.com/2001/05/22/world/officials-long-debated-risks-of-anti-drug-patrol-in-peru.html>

<sup>29</sup> Perret, A. (2013) 'Privatization without regulation: The human rights risks of private military and security companies (PMSCS) in Mexico', *Mexican Law Review*, 6 (1), pp. 163–175.

<sup>30</sup> Neu, K. and Avant, D. (2019) 'Overview of the relationship between PMSCs and extractive industry companies from the Private Security Events Database.' Denver University.

<sup>31</sup> The Merida Initiative ended in 2021, however this has been replaced by the Bicentennial Framework. It is not clear whether this new initiative includes the provision of PMSCs.

held accountable in these countries.<sup>32</sup> This immunity from prosecution for human rights violations or other forms of violations raises issues of accountability, undermining the rule of law and human rights.

Under the Military Extraterritorial Jurisdiction Act (MEJA), the possibility exists to prosecute PMSC contractors in the U.S., as they can be held accountable for crimes committed overseas if domestic remedies are not feasible and they are working in support of a Department of Defence mission overseas. This however means that contractors supporting agencies such as the CIA or the State Department (one of the largest contractors of PMSCs on behalf of U.S. government activities in the LAC region) do not fall within the scope of MEJA.<sup>33</sup> Under U.S. federal law, there is also the Alien Tort Statute, to sue for corporations working abroad however, the Supreme Court in 2013 under the *Kiobel* case restricted the extraterritorial application of federal law making it very difficult for cases to be brought against PMSCs.<sup>34</sup>

A further national security risk is PMSCs obtaining sensitive security information that could undermine the contracting government and its security forces. For example, in 2008, the Colombian National Police discovered that Global CST personnel had copied and attempted to sell classified intelligence documents from the Colombian Defense Ministry to the FARC.<sup>35</sup>

### KEY FINDING 3: ADVANCES IN REGULATIONS AND NORMS BUT CHALLENGES PERSIST

#### International regulations and norms

In general, the security context of the LAC region has changed from one of armed conflicts and authoritarianism to more general insecurity involving armed criminal groups and state fragility, which has diminished the possibility for

mercenaries and PMSCs supporting rebel groups. In this context, the LACCSMA dataset illustrates that in recent decades, PMSCs – unlike mercenaries – for the most part have not continued to work for other types of non-state armed groups such as drug cartels or political-criminal groups nor continued to provide combat support. Instead, they have moved towards indirect military services such as military operational support or intelligence, as well as security services, for governments, extractive companies, and international organisations.

These findings correlate with advances in international regulations and norms that have had a restraining effect on PMSCs, reducing the likelihood of both PMSCs providing services to non-state armed actors and PMSC engagement in direct military operations. One advance is the growth in the anti-mercenary norm that has pushed PMSCs towards differentiating themselves from mercenaries. This includes taking steps to legitimise their activities such as working for governments and international organisations as opposed to armed non-state actors and partaking in defensive as opposed to offensive operations.<sup>36</sup> Several mercenary and PMSC regulations have also been implemented since the 1980s at the international level. Examples include the 2001 UN Mercenary Convention<sup>37</sup> that prohibits mercenary activities and the 2008 Montreux Document, a non-binding agreement that outlines good practices and international State legal obligations to international human rights and humanitarian law with relation to PMSCs. The other important international regulation is the International Code of Conduct for Private Security Service Providers (ICoC) adopted in 2010, which complements the Montreux Document's focus on State regulation by outlining obligations for PMSCs themselves.<sup>38</sup>

Regulations and norms also appear to have further restrained PMSC activities in terms of violence towards civilians. Previous studies have found that regulatory regimes, in general, have a restraining

<sup>32</sup> Arias, P. (2009) *Seguridad Privada en América Latina*. See n.2.; Hobson, C. (2014) 'Privatising the War on Drugs'. See n. 1. Perret, A. (2013) 'Privatization without regulation'. See n. 29.

<sup>33</sup> Dustin M. Tipling (2006) 'The Military Extraterritorial Jurisdiction Act and Its Implications for Private Military Companies' *Bepress Legal Series*. Working Paper 1393. <https://law.bepress.com/expresso/eps/1393>

<sup>34</sup> Coleman, T. and Holland, E. (2015) 'Touching and Concerning 'Kiobel': Continuing Implications', *New York Journal*. Available at: <https://www.law.com/newyorklawjournal/almID/1202726609409/>

<sup>35</sup> Gil, L. (2014) 'Global CST'. *El Tiempo*, December 9. Available at: <https://www.eltiempo.com/archivo/documento/CMS-14952565>

<sup>36</sup> Petersohn, U. (2014) 'Reframing the anti-mercenary norm: Private military and security companies and mercenarism', *International Journal*, 69 (4), pp. 475–493.

<sup>37</sup> Only Cuba, Honduras, and Peru have ratified the UN Mercenary Convention.

<sup>38</sup> There is also a UN Draft International Convention on Military and Security Companies.

effect on the use of force,<sup>39</sup> while a recent study on PMSCs has found strong evidence that membership to the Montreux Document reduces the likelihood of violence against civilians.<sup>40</sup> For example, since signing the Montreux Document, the U.S. government has implemented national defence authorisation acts in 2008, 2009, and 2011 to better regulate PMSCs that are contracted by U.S. government agencies, through 'selection, training, equipping and conduct' of PMSC personnel in areas of combat operations and meeting 'tracking and reporting requirements'.<sup>41</sup> The study also finds that PMSCs that are headquartered in countries with strongly institutionalised human rights are less likely to commit violence against civilians, which suggests that both strong human rights laws and membership to regulatory bodies reduce violence against civilians and constrain their activities.<sup>42</sup> For mercenaries, however, advances in norms and regulations are less clear. While there has been a decrease in mercenary activities since the 1990s, higher human rights standards did not mean that there were fewer human rights abuses committed by mercenaries, as results were insignificant.<sup>43</sup> Given mercenaries are generally ad hoc in nature and provide combat operations or military training to illegal armed non-state actors such as criminal gangs, mercenaries may not worry about the legal repercussions of committing violence against civilians, as in such cases their work is already illegal, however international norms may have a deterring effect on engaging in mercenary activities in the first place.

## ROLE OF (SUB-) REGIONAL BODIES

While there have been international regulations and norms that have made a difference in the region, there are no regional frameworks that regulate PMSCs and mercenaries. The Inter-American System of Human Rights, which was created by the Organization of American States (OAS), could potentially hold these actors to

account for human rights abuses in the LAC region. The Inter-American System of Human Rights consists of an American Convention on Human Rights that codifies civil and political rights, which is enforced through the Inter-American Court of Human Rights, and legally binds States to protect human rights, prosecute and remedy human rights violations, as well as implement these rights into domestic law. However, there are limitations to its applicability of enforcing human rights in the region, as the American Convention allows certain rights to be suspended in situations of war or internal tensions, but subsequent rulings have maintained that several rights are protected even in these situations such as the obligation to prosecute.<sup>44</sup>

Within this system, there is also the Inter-American Commission on Human Rights (IACoMHR) that builds awareness of human rights in the region and makes recommendations to member states on appropriate measures to protect human rights. It also has an individual complaints mechanism for individuals to report human rights violations under the American Convention or the American Declaration, however this is only applicable when all domestic remedies have been exhausted.

The main challenge to these regional bodies is that while in theory the Inter-American System of Human Rights has the mandate to hold PMSCs and mercenaries to account for human rights violations, this has not been put into practice, while in general it has struggled to enforce its rulings and recommendations.<sup>45</sup>

## NATIONAL REGULATIONS ON PMSCS AND MERCENARIES

- In terms of national regulations, most LAC countries have regulations for private security services, but they often do not specifically refer to military type activities or cover extraterritoriality.<sup>46</sup> The repercussion of this is that much of the work that PMSCs do are not covered in national regulations. In terms of the

<sup>39</sup> Morrow, J.D. (2014) *Order within anarchy: the laws of war as an international institution*. Cambridge: Cambridge University Press.

<sup>40</sup> Penel, C. and Petersohn, U. (2022) 'Commercial Military Actors and Civilian Victimization in Africa, Middle East, Latin America, and Asia, 1980-2011', *Journal of Global Security Studies*, 7(1), <https://doi.org/10.1093/jogss/ogab029>

<sup>41</sup> See UN (2010) Human Rights Council: 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, July 2, AA/HRC/21/43, para. 43 and 52.

<sup>42</sup> Penel, C. and Petersohn, U. (2022) 'Commercial Military Actors and Civilian Victimization'. See n.40.

<sup>43</sup> Penel, C. and Petersohn, U. (2022) 'Commercial Military Actors and Civilian Victimization'. See n.40.

<sup>44</sup> Perret, A. (2014) *The Role of the Inter-American System of Human Rights*. See n. 2.

<sup>45</sup> Perret, A. (2014) *The Role of the Inter-American System of Human Rights*. See n. 2.

<sup>46</sup> UN (2015) Annual 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. A/HRC/30/34.

applicability of extra-territoriality of human rights law, there are cases where U.S. PMSCs are regulated through external agreements with the U.S through its anti-drug programmes, specifically in Colombia, Mexico, and Peru, but they have effectively been given immunity. Similarly, in Haiti, PMSCs working for the UN received immunity as a part of the peacekeeping force.<sup>47</sup> As highlighted in the previous section, the effect of this has been that there is a legal void that makes it extremely difficult for the host state, as well as the territorial state, specifically the U.S., to hold PMSCs accountable for human rights abuses.

- As for regulations on mercenaries, only Peru explicitly prohibits mercenaries in its domestic legislation, however there are several countries in the LAC region that prohibit activities that could be associated with military or mercenary type activities.<sup>48</sup>
- A further challenge is that most national legislations on PMSCs and mercenaries do not tie their obligations with international human rights and humanitarian law, while a review of eight countries in Central America found no reference to international humanitarian law in any of the regulations related to PMSCs.<sup>49</sup>

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<sup>47</sup> Perret (2014) The Role of the Inter-American System of Human Rights. See n.2.

<sup>48</sup> UN (2015) Annual report of the Working Group. See n. 46.

<sup>49</sup> UN (2015) Annual report of the Working Group. See n. 46.

## Conclusion and recommendations

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This paper demonstrates that although PMSCs and mercenaries remain active in the region and the number of PMSCs has even increased since the 1980s, they have undergone changes in terms of the context they work in, the services they provide, and the types of clients and consumers they work for. While PMSCs may generally contribute positively to a host country, given that they are often armed and the nature of the work, there are serious risks of human rights violations occurring if the industry is not properly regulated, undermining state control and the rule of law. On the other hand, while mercenaries have not maintained such a strong presence as during the many armed conflicts in the 1980s, their continuing work for criminal groups can have serious and devastating negative consequences for human, national, and regional security.

Based on the information obtained and the conclusions of this brief, the following recommendations are brought forward to improve human, national, and regional security.

## INTERNATIONAL LEVEL

- To curtail the risks of PMSCs committing human rights violations, LAC countries, as well as (sub-) regional organisations, would benefit from **supporting the Montreux Document and the International Code of Conduct for Private Security Providers**. Joining regulatory regimes increase restraint and there is evidence that joining the Montreux Document decreases the incidence rate of violence against civilians.
- As illustrated in this policy brief, there are sub-regional and regional trends for PMSCs and mercenaries. At the same time, LAC governments often have limited financial and human resource capacity to effectively monitor PMSC and mercenary activities. To overcome these hurdles, **a (sub-) regional approach can play an important role in tackling common issues through collaboration, pooling resources, and reducing costs**. (Sub-) regional organisations such as the Community of Latin American and Caribbean States and the Union of South American Nations, as well as the OAS, in particular its Secretariat for Multidimensional Security, could be used as platforms to promote collaborative approaches. Examples include collecting and sharing data on the movements of mercenaries and PMSCs to monitor their activities and holding forums to address common challenges.
- To support the enforcement of PMSC regulation and uphold international human rights and international humanitarian law, the Inter-American System of Human Rights should be used to regulate PMSC and mercenary activities by applying the Montreux Document to its rulings.



## NATIONAL AND LOCAL LEVEL

- In the LAC region, with the exception of Colombia, PMSCs and mercenaries are working in non-armed conflict settings. As there are no international regulations on mercenaries that refer specifically to situations that fall outside of armed conflicts<sup>50</sup>, there is a need for this gap in international law to be covered through national regulations. This means **specifically prohibiting mercenary activities in domestic legislations that include meaningful enforcement mechanisms**.
- To avoid PMSCs acting with impunity and the undermining of state security and justice institutions, as well as to reduce human rights violations, **governments should implement domestic regulations that not only refer to security services but also military services**.
- As strong human rights standards reduce the likelihood of PMSC violence against civilians, national PMSC regulation should refer to international human rights and humanitarian laws and include monitoring and compliance measures. To help with the implementation of these regulations, governments should refer to the Montreux Document's good practices, which lists specific regulatory mechanisms to strengthen the domestic application of international human and humanitarian law with relation to PMSCs. Additionally,

<sup>50</sup> Although there is the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which is a legally binding state agreement, it has some weaknesses, one of which is that it is only applicable to armed conflict contexts.

governments can also use the support of the Montreux Document Forum's advisory support capacity.<sup>51</sup>

- As PMSCs and mercenaries work abroad, there is a need for countries to strengthen regulations to improve the control over the export of private military services and prevent mercenarism by including extra-territoriality into their domestic legislation.
- There is a need to **strengthen national initiatives to formalise the PMSC sector** to be able to better identify PMSCs committing abuses and mercenaries behind a PMSC façade.
- Civil society can play a key role in promoting good governance of the PMSC industry. To facilitate this, the capacity of local civil society organisations needs to be strengthened to ensure effective oversight and accountability of the PMSC sector and to act as a watchdog for illegal mercenary activities.

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## About DCAF

DCAF – Geneva Centre for Security Sector Governance is dedicated to improving the security of states and their people within a framework of democratic governance, the rule of law, respect for human rights, and gender equality. Since its founding in 2000, DCAF has contributed to making peace and development more sustainable by assisting partner states, and international actors supporting these states, to improve the governance of their security sector through inclusive and participatory reforms. It creates innovative knowledge products, promotes norms and good practices, provides legal and policy advice and supports capacity-building of both state and non-state security sector stakeholders.

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