

12. Private Security Companies

Key definitions: who are private security companies and what makes them different from other security providers?

Private security companies (PSC) are businesses that provide security services on a for-profit basis to paying customers. They come in a great variety of forms from small local businesses to large multinational corporations and are hired by members of the public, other businesses, and also the state. The demand for PSC services has increased significantly over the last decades and PSC employees now outnumber public security forces in a significant number of countries.

PSC can be contracted for a wide range of services, for example: as security guards, protecting people or property and regulating access to private property or commercial premises; conducting online and in-person surveillance and investigations (private detectives); improving site security through physical measures (such as locks, fences, surveillance equipment, etc.); and providing security training for state security services or other PSC. PSC are also often contracted to supplement state security providers, such as working with police in public order and crowd control tasks at large public events or guarding critical infrastructure; working in penal institutions with prison services or providing logistical support; working with border authorities in immigration or border management; or working with intelligence agencies in supplying open-source data and analysis or cyber security services. Although they often work hand-in-glove with the state security sector, PSC have no special powers of law enforcement or state authority, and their work is restricted to the tasks that they are contracted to perform.

Some private companies offer military services to both state and non-state actors in conflict and post-conflict zones. Military services range from support on and off the battlefield and direct involvement in combat, and have sometimes resulted in allegations against companies for escalating conflict, entrenching corrupt interests, and violating human rights. These companies are often referred to as “private military-security companies” (PMSC), “private military companies”, or more controversially, “mercenaries”. The United Nations International Convention against the Recruitment, Use, Financing and Training of Mercenaries outlawed mercenaries in 2001 and many countries have since introduced national licensing regimes to regulate the operations of PMSC with respect for international law.

A robust legal and policy framework is required in order for states to regulate the activities of all kinds of private security providers and to ensure their work respects the rule of law and respect for human rights. Insufficient regulation of private security companies has resulted in significant security and human rights challenges. However, well-regulated PSC that are committed to respecting human rights and rule of law in the conduct of their business provide valuable services that enhance public safety and national security. Security sector reporting on PSC is critical to draw attention to problematic cases, unscrupulous actors or lack of regulation and oversight, as well as analyzing and informing the public about public-private cooperation in public safety and national security.

Key issues for reporting on private security companies

Clear rules for respect of human rights and the rule of law? As with other security sector actors, the activities of PSC can undermine rule of law and respect for human rights if not regulated by a clear and robust legal and policy framework. Yet the regulation of private security companies is often insufficient at the national level; in particular on issues of personnel selection, recruitment and vetting, training requirements, use of force policies, internal control procedures within companies, and oversight and sanctioning by public regulators. A lack of clear regulatory standards is detrimental to public safety and national

security, exposes the public to risks of abuse, and fails to protect the rights of employees who work for PSC. States have a responsibility to protect people from human rights abuses by security sector actors, which means there is a need to regulate and monitor the activities of PSC whether they operate within a state's borders or beyond them. International standards, such as the Montreux Document and the International Code of Conduct, provide guidelines for states on how to regulate PSC (see Further Resources).

→ **Journalists can ask:**

- ✓ What national procedures and licensing regimes regulate the activities of PSC?
- ✓ Are national regulations aligned with international standards, such as the Montreux Document and the International Code of Conduct?
- ✓ What do experts (e.g., civil society, government regulators, judicial specialists, private sector associations) make of the legal and policy frameworks for regulating and overseeing the activities of PSC?
- ✓ Have PSC created their own standards of conduct and are they publicly available?
- ✓ Have PSC established and made accessible company grievance mechanisms?
- ✓ Have alleged victims of human rights abuses been able to access company grievance mechanisms and to what effect?
- ✓ Do PSC raise awareness of and cooperate with the International Code of Conduct Association's complaints mechanism?
- ✓ How does the conduct of PSC affect the lives of diverse individuals and groups within the population?
- ✓ Is there legal recourse available to people who feel they have been adversely treated or affected by PSC?
- ✓ Are there patterns of abuse or malpractice visible in complaints made against PSC?
- ✓ What role do PSC play in supporting state security services?
- ✓ Are legal frameworks adequate to govern PSC activities and contractual relationships with state security providers?
- ✓ Who is responsible for monitoring and oversight of PSC work with state security providers?
- ✓ What needs to change in PSC regulations or current practices to better serve public safety and national security?

Accountable and appropriate use of force? PSC personnel are sometimes mandated to use force in the course of their duties, and this can mean they may also be armed. Armed PSC personnel might carry firearms, or less lethal weapons such as batons or sprays. The conditions under which PSC personnel may carry weapons, what kind, and how they may be used should be carefully regulated and must be guided by the personal right to self-defense unless explicitly authorized by law to perform wider tasks. The authorization to use of force for PSC personnel should be aligned with (and must not exceed) international and national standards for appropriate use of force that apply to security sector personnel, including human rights law and international humanitarian law. This is especially important in contexts where PSC work in direct cooperation with state security forces, or when security sector personnel may also work for PSC when off-duty or out of uniform. PSC need to function within mechanisms guaranteeing oversight and accountability for the use of force in the course of their activities.

→ **Journalists can ask:**

- ✓ What legal conditions determine how PSC use force?
- ✓ What conditions are in place for monitoring, oversight and review?
- ✓ What weapons are PSC authorized to use and are guidelines and conditions clear?
- ✓ How are PSC personnel trained in the use and non-use of force?
- ✓ Is their preparation for contact with the public adequate?
- ✓ Are PSC adequately prepared for roles in complex security situations?
- ✓ What processes are in place to receive and act on complaints about PSC conduct in their work with state security providers?
- ✓ How are suspected cases of abuse handled by companies?
- ✓ How are suspected cases of abuse handled by the security and justice sector? What is the record of prosecution against personnel and companies?
- ✓ What can testimony from PSC personnel (current or former) reveal about the use of force by company employees?
- ✓ What can testimony from members of the public, current or former clients, of affected communities reveal about the use of force by company employees?

Responsible conduct and fair contracting? The market for private security services has become lucrative both globally and in national settings where public security is not meeting public demand. Consequently, the process of contracting private security (especially tenders for services conducted by governments) can create risks of corruption that endanger public safety and national security: for example, if PSC are unable to perform the services they have been contracted for effectively and accountably, if they do not respect human rights and rule of law in doing so, or if corruption in competition for contracts spreads into other parts of government and the security sector.

→ **Journalists can ask:**

- ✓ Who is responsible for contracting decisions?
- ✓ On what criteria or basis are contracting decisions made?
- ✓ Are contracts with the state tendered appropriately, subject to financial audit, and publicly available?
- ✓ Are ownership records and beneficiaries of PSC known publicly?
- ✓ Do key actors on the public or private side of a contracting decision have pecuniary interests in that decision or a conflict of interest?
- ✓ What processes are in place to reveal conflicts of interest?
- ✓ What internal policies and measures do PSC have in place to prevent and avoid corruption, harassment and abuse, sexual or gender-based violence?
- ✓ What internal policies and measures do PSC have in place to protect human rights, and to ensure they are meeting international standards for responsible conduct (such as the International Code of Conduct for Private Security Service Providers, ISO 18788: 2015 Management system for private security operations, or the UN Basic Principles on Business and Human Rights).
- ✓ In stabilization contexts where PSC are contracted to provide protection services to international staff, journalists can ask whether PSC, contracting states, and organizations are complying with relevant organizational and international standards? (e.g., the United Nations Policy on Armed Private Security Companies, and the Guidelines on the Use of Armed Security Services from Private Security Companies)

Box 27 Practical example: “Mining company acts on accusations of grave human rights abuses against its private security contractor”

An extensive investigation by an NGO revealed grave human rights abuses at a Tanzanian diamond mine, including claims that people were shot with little or no warning, stabbed, detained, beaten and incarcerated for days, and deprived of food or medical treatment. The accusations were directed at a nationally based PSC, which worked together with Tanzanian police at the site. The revelation of these claims in an industry specific publication (Mining Weekly) triggered a promise by the international mining company that runs 75% of the mine to conduct its own investigation, and to conduct interim human rights training for on-site security personnel while the investigation was completed. Two mining staff responsible for oversight of security were also suspended as a result of the accusations. This story is an example of how security sector reporting on PSC and their relationships with national security forces is a matter of pressing public interest. It also shows how journalists can usefully draw on PSC clients and civil society expertise in their reporting.

Source: “Petra acknowledges Raid human rights abuse claims report, takes interim remedial action”, November 2020, <https://www.miningweekly.com/article/petra-acknowledges-raid-human-rights-abuse-claims-report-takes-interim-remedial-action-2020-11-13>



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