

Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination

Summary of the Expert Consultation on the Gender Dimensions of the Private Military and Security Industry

On 2 April 2019, the Working Group on the use of mercenaries, as mandated by resolutions 33/4 and 39/5 of the Human Rights Council, held a consultation on the gender dimensions of the private military and security industry. Chaired by Working Group member Dr. SORCHA MacLEOD, the one-day meeting held in Geneva brought together academics, representatives of non-governmental organisations, industry, the United Nations, a State regulatory body, a trade union and a multi-stakeholder initiative, encompassing Africa, Europe and Latin America, as well as all members of the Working Group.

Discussions were vibrant and varied, and sought to answer questions identified by the Working Group with regard to the following issues: (1) the key intersectional gender considerations related to the impacts of operations of private military and security companies (PMSCs) in the specific contexts in which they operate, notably the differentiated impacts of PMSC actions on local communities and on wider gender relations; (2) gender-related workplace cultures and challenges, as well as issues of workplace misconduct and abuse; and (3) bringing about change in the areas of integration of gender and sexual orientation and gender identity issues and of gender equality, sensitivity, prevention and protection measures, and accountability and remedies.

Setting the scene

The meeting began with a discussion of conceptual understandings of gender in the context of the PMSC industry. Key issues highlighted included the need to: address imbalances in power relations; challenge prevailing assumptions and stereotypes; tackle institutional, organisational and societal cultures; challenge narratives of insecurity; ensure access to justice for victims and hold private actors accountable. Appreciation was expressed for the Working Group taking up this issue given how little attention it has received to date. Shining a gender-sensitive lens on the PMSC industry contributes to a better understanding of the differentiated impacts of the actions of PMSCs on women, men, girls, boys, gender non-binary people, and LGBTI persons, as well as the intersectional dimensions of their experiences linked to socio-economic status, race, nationality and other factors. It also helps to unpack how these different groups experience security, and in particular the provision of private security.

Overall, there was broad agreement about the lack of understanding and awareness about the gender dimensions of the PMSCs industry, both at the level of PMSCs themselves and of many of their clients. This is coupled with a lack of policies and procedures within companies, particularly in relation to human rights impact assessments and grievance mechanisms.

There was also recognition of the diversity of the industry from small domestic PMSCs to large transnational ones, the varied contexts and sectors in which PMSCs operate, the types of services they provide, and the regulated and unregulated or illicit markets.

In some countries, PMSCs operate in all spheres of society (including providing security in schools, universities, hospitals etc.) where they have regular direct contact with members of the public, and where they by far outnumber national police. The point was made that this diversity makes it essential to take into account specific contextual realities when assessing the risks for gendered constituencies.

When considering local contexts, participants also recalled arguments of cultural relativism, with PMSCs often failing to challenge prevalent gender stereotypes in an effort to secure the contract. Several participants stressed the responsibility of companies to avoid contributing to perpetuating harmful stereotypes and practices, and a suggestion was made for companies to listen to alternative voices and to work with local community members to challenge stereotypes and conservative attitudes.

External aspects

It was noted that women form the majority of victims of sexual and gender-based violence and discrimination, with perpetrators being predominantly men, thus making the case for the need to place women's concerns at the core of the debate. In addition, the multiple identities of women and the intersectional dimensions of the discrimination they face were also raised. Women human rights defenders and women from indigenous communities were identified as specific at-risk groups. At the same time, there was recognition that victims also include men and LGBTI persons who suffer abuse, including sexual violence, because of their gender or sexual orientation and gender identity. Moreover, under-reporting of abuses by PMSCs was flagged as a concern, and when cases are reported, impunity and denial of victims' right to a remedy overwhelmingly prevails.

It was further mentioned that the differentiations in the quality of security that individuals receive is impacted by their socio-economic status, particularly in contexts categorised by high levels of insecurity where PMSCs are widely deployed. In addition, several interventions pointed to the role of PMSCs in identifying who is considered a security threat drawing on and feeding into prevailing security narratives that fail to take into account broader socio-economic and other factors.

Participants highlighted the challenges of addressing gender equality and gender-based violence and discrimination as a broad societal phenomenon affecting public and private spheres, as well as the lack of accountability for such abuses that is heightened in the private sphere. The focus on company-level grievance mechanisms in the business and human rights context led several participants to raise questions about the appropriateness of such mechanisms to deal with human rights abuses that amount to crimes, and the necessity for State judicial processes to be initiated in such cases.

The inadequate legal frameworks and State oversight capacities were highlighted as a concern in many countries across regions. It was noted that where laws do exist, they do not take into account gender dimensions. Questions were raised about the relationship between companies and governments, which at times lead communities to question whether security is provided for the entire community or for specific private interests. In addition, examples were given of apparent State disregard or impartial handling of complaints about alleged PMSC abuses made by community members.

Internal dimensions

Overall there was consensus that the PMSC industry is generally male-dominated due to male dominance in military and police institutions whose personnel form the main recruiting ground for PMSCs in many countries as well as traditional stereotypes about men, women, non-binary and LGBTI persons. However, there are exceptions (e.g. a Caribbean country where women, including single mothers, comprise a large percentage of PMSC personnel, and an African country where about half of PMSC personnel are women), as well as women managers in some companies. However, several participants also cautioned against focusing on simply increasing the number of women working in the industry, stressing that the focus should be on having trained personnel who are well-versed in gender and human rights issues, irrespective of gender. At the same time, the view was shared that ensuring the appointment of diverse personnel may enrich operational planning and analysis.

Issues around selection, vetting and training were discussed. The point was made that training on human rights and gender issues is needed by PMSC personnel across the board, and that notwithstanding its importance, it is insufficient on its own. Significant emphasis was placed on shifting the focus away from individual interventions, such as a training course, to putting in place an array of measures that seek to bring about organisational cultural change.

Examples of discrimination, sexual harassment and sexual assault of female employees of PMSCs by supervisors, co-workers, the client, and members of the public were highlighted from a number of countries suggesting a widespread problem. It was also noted that when women make a complaint, they regularly face retribution. Labour rights issues were also raised as a widespread problem affecting men and women in different ways. Women's experiences working in PMSCs are also shaped by the fact that their workplaces rarely cater for women employees (e.g. no separate changing rooms or toilets, equipment that is designed for men).

Several participants suggested the need to drive improvements and standards into all levels of the supply chain.

Towards change

The role of the State was a recurrent theme in the interventions with a strong message emerging that States should assume their responsibilities by taking a more robust approach to regulating PMSCs. Participants highlighted that this requires actions in the areas of legal reform, regulatory and oversight bodies, and accountability mechanisms. In addition, participants noted the State's obligation to create an environment that does not facilitate violations and sends a clear message to private actors that abuses will not be tolerated.

In many cases, the State is also a client engaging the services of PMSCs. In this regard, participants also stressed the need for clients, whether State, business, non- or inter-governmental, to assume their responsibilities for ensuring that the PMSC they hire acts in accordance with international human rights standards, including in relation to gender issues. There is a need for clients to set and enforce clear standards and expectations of how the PMSC will conduct itself, including through relevant clauses in contractual

arrangements between the client and the PMSC. An additional aspect raised in this regard is the need for clients to hire staff with appropriate gender and human rights expertise.

At the level of PMSCs, there were calls to avoid a checklist approach. Rather, a number of participants emphasised that companies need to introduce catalytic actions to trigger organisational cultural shifts, and a suggestion was made that the development of new policies and procedures may be a means to start conversations on changing organisational cultures. Several other recommendations were made, including that companies should put in place clear internal rules on preventing and addressing sexual and gender-based violence, and on gender mainstreaming. They should also consider the ways in which communities experience insecurity and how their actions may aggravate those experiences, and take a systemic look at how they can make a positive difference in the communities in which they operate. The importance of vetting, including in the public forces, was mentioned given the revolving door phenomenon between public and private security forces. Companies were also encouraged to increase transparency and accountability.

Calls were made for more practical guidance on what PMSCs and clients need to do to strengthen their understanding of and approaches to gender, e.g. in relation to selection, vetting, training, human rights risk assessments, duty of care towards staff. Moreover, a suggestion was made to use available guidance on gender mainstreaming and SGBV issues that have been developed for public security forces, to the extent applicable. At the same time, words of caution were offered with regard to an overly practical and pragmatic approach in this context, noting the need to work progressively towards gender equality and organisational cultural change while taking principled, firm and swift actions to address sexual and gender-based violence and structural inequalities and discrimination underlying such acts. Suggestions were made for training to target not only PMSC personnel fulfilling security roles but also those in managerial roles, recruitment, those dealing with complaints and grievance mechanisms and all other relevant areas, as well as clients that engage PMSCs.

The critical role of civil society was also mentioned as a means to monitor and report on PMSC actions and advocate for change, as well as to work with victims to give them a voice and to support them in their pursuit of remedies.

Finally, it was clear that further reflection is required regarding the gendered impacts of emerging areas, such as the use of technologies, biometrics, and intelligence gathering in which PMSCs are increasingly active, and in particular the sharing of data obtained in these processes. It was further noted that these are areas in which specific regulation is lacking.

The Working Group thanks all participants for their active contributions, and notes that the insights gained during the meeting will feed into the preparation of a thematic report on the gender dimensions of the PMSC industry that will be presented to the 74th session of the General Assembly in October/November 2019.