

TRANSPARENCY AND GOVERNANCE OF PRIVATE MILITARY AND SECURITY SERVICES

WORKSHOP REPORT



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The workshop “Transparency and Governance of Private Military and Security Services” was held at the Josef Korbel School of International Studies, University of Denver from 30 May – 1 June 2012. It was sponsored by the Sié Chéou-Kang Center for International Security and Diplomacy at University of Denver in collaboration with the Centre for the Democratic Control of the Armed Forces (DCAF) in Geneva. The content of this report reflects the interpretation of the discussion by the Sié Center and DCAF.

INTRODUCTION

Over the past year there have been significant developments in the regulation of private military and security companies (PMSCs). States, NGOs, industry leaders and combinations of all have introduced various tools of governance and control ranging from codes of conduct, to laws, to guidelines, to standards.

Yet, the expansion of private military and security services is outpacing regulatory efforts. Global private security service providers continue to enter new markets with new clients. The use of private armed guards to combat piracy, for example, dramatically increased in the last year.

The growth of the industry is not the only factor complicating its governance. Those attempting to regulate the provision of private military and security services are often also clients that purchase or use private security. This is true for some governments as well as international organizations, NGOs and, in some case, private sector clients. These dual roles present both challenges and opportunities.

In May 2012, the Sié Chéou-Kang Center for International Security and Diplomacy at the Josef Korbel School of International Studies, University of Denver, in collaboration with the Geneva Centre for the Democratic Control of Armed Forces (DCAF), convened experts from government, academia, civil society and the private sector to debate and discuss recent developments in governance of the private security sector and the various roles that different participants in the governance process play. The workshop, "Transparency and Governance of Private Military and Security Services," reaffirmed the continued utility of the industry for both states and non-state actors. Participants also confirmed that force raised in this way can operate outside of the law or in a manner inconsistent with the obligations of international laws and norms or public values. Discussions therefore focused on whether regulatory efforts at all levels—company, country, global and those involving all stakeholders—have achieved their intended ends, and what can be done to assure private military and security services are delivered lawfully, professionally and humanely.

This paper details the outcome of the workshop discussions. Part I sets forth the ongoing operational challenges facing the private military and security industry and how interested stakeholders are attempting to remedy these issues. Part II addresses the role of clients of private security companies as primary regulators of PMSC services. Though perhaps complicating regulatory processes, many participants expressed the view that their ties to the industry as clients of private security firms offered leverage in regulatory efforts. In the end, discussions revealed that fruitful partnerships may provide one means for facilitating the responsible provision of security services.

PART I: CHALLENGES COMPLICATING EFFORTS TO REGULATE THE PMSC INDUSTRY

While PMSCs offer opportunities for both states and non-state actors to pursue goals that require security services, based on this very need PMSCs often operate in the context of an armed conflict or in other unstable, high-risk environments. In many such places of operation, weak central governments mean that state control and rule of law are not guaranteed. This complicates both the oversight and regulation of PMSCs, and underscores the need for effective national and international regulation of private forces. And although governments, industry officials, and international organizations have all indicated interest and willingness to develop and support global standards for private security providers, many obstacles hinder the expedient development of comprehensive regulation, chief among them transparency in company operations and mechanisms for quality-control and oversight.

At the workshop, participants discussed each of these complicating factors and more as part of the broader discussion on recent developments in governance of the private security sector.

THE ISSUE OF INFORMATION

In most instances, the type, scope and duration of the work to be performed by a private security company for its client is private, set forth in a contract between the parties and not publicly disclosed. Without accurate information on where private military and security companies are operating and what security tasks they undertake, it is impossible for external observers to assess what existing regulations apply and whether those regulations are robust, enforceable and followed. The absence of accessible information makes it difficult to accurately evaluate whether companies and their clients are abiding by their legal and ethical responsibilities. Publicly available information is crucial both to the success of regulation and to systematic analysis on the impacts of this industry.

The issue of information was paramount at the workshop. Over one year earlier, a similar group of experts met at a workshop at University of California Irvine. The event was part of the on-going collaboration between Deborah Avant, the Director of the Sié Chéou-Kang Center, and DCAF. At that workshop, participants discussed what information should be publicly available in order to properly monitor the private military and security industry. At that time, despite convergence among regulatory efforts, a lack of information about the industry posed problems for those researching it, for those attempting to regulate it, and even for industry members seeking recognition for proper behavior. At the workshop, participants learned that some information about the industry was public, but those sources were not widely known, sufficiently linked, or properly catalogued. Participants therefore seized upon the idea of building a centralized, online information portal specific to the private military and security industry.

The following year was spent developing this portal, and participants at the May 2012 workshop were the first to view and use the free, online "Private Security Monitor." The Private Security Monitor's web portal, located at psm.du.edu, provides an annotated guide to regulation, data and analysis of private military and security services. It is a one-stop source for public information on the worldwide use of these services and thus a resource for governments, policy-makers, activists, journalists, and researchers.

Participants at the workshop discussed additions and edits to the site that would make it more valuable to users. Many of these changes were immediately put into place, and participants agreed to continue sharing documents with the Sié Center so that it could add to the contents of the Private Security Monitor site.

ISSUES OF TRANSPARENCY

Despite the utility and importance of the Private Security Monitor, its developers and the other workshop participants recognized that it was not a panacea. As noted above, agreements between private security companies and clients remain largely private, and the details of private security operations are similarly opaque. Overall, there is a general lack of transparency in the operations of private security companies, particularly in high-risk environments where rule of law is weak or the jurisdictional authority unclear.

Participants recognized that the issue of transparency in operations was particularly acute in the maritime private security industry. It has been reported that more than a quarter of vessels now use armed private security teams onboard ships. This increase is due to the ongoing scourge of piracy. The geographic risk area for pirate attacks is vast; it extends well-beyond the coast of Somalia where attacks are frequent and violent, north to the Strait of Hormuz, east to the coast of India, and south to Madagascar. At one time, shippers used various strategies short of armed force to defend against attacks. However, the use of private, armed guards proved cheap and effective; to date, no ship with armed security onboard has been taken by a pirate, and the cost of an armed contingent is tens of thousands of dollars less than other defensive methods.

Despite their utility and effect in combating piracy, observers—including some workshop participants—have noticed a worrisome trend as security teams supplant, rather than supplement, other defensive measures used by ship owners. First, participants noted that the threat of armed force by private security has the possibility of escalating rather than deterring violence, which puts the ship and its crew at risk. Second, many states have an interest in just one ship—the flag state, charter state, state where the security company is registered, to name a few—which complicates the regulatory and jurisdictional issues. Third, hiring, vetting and training of private maritime security teams has yet to be standardized, and who sets the standards is likewise unclear. Last and perhaps most worrisome is the lack of reporting of serious incidents involving private security and pirates.

Some ships using private security guards are not reporting, or they are significantly downplaying, attempted pirate attacks as or after the attacks occur. There could be many reasons for this under-reporting, including fear of liability. Should the incident necessitate an investigation, for example, the delivery of the cargo could be delayed, costing the ship owner greatly. In addition, prosecution is a concern since the use of force by armed guards aboard ships is not standardized and is widely thought to be used disproportionately in comparison to that used by pirates. Participants were shown a video of a private security team firing on suspected pirates that illustrated this point.ⁱ

As workshop participants learned, information about an attempted and aborted pirate attack is vital to other ships in the area. Stakeholders including governments, ship owners and civil society are working together to devise reporting methods that are anonymous and aggregated. This would encourage reporting because the ship involved would not be able to be identified.

ISSUES OF OVERSIGHT AND ACCOUNTABILITY

In line with concerns of transparency are those of oversight and accountability. As one participant noted, the public lacks understanding of the industry, which has led to misperceptions and sometimes unproductive dialogues about the role and use of PMSCs in society. The most productive meetings are those like this workshop, which involve many interested parties and allow for constructive discussion and learning. Such discussions can result in advances towards the responsible provision of security services.

Recently, the Temporary Steering Committee of the International Code of Conduct (ICoC) held similar meetings on a regular basis to explore how the Code can complement existing, state-level regulations. The ICoC, finalized in 2010, articulates a set of standards for private security companies to comply with international human rights and humanitarian law. It requires signatory companies to comply with these obligations regardless of the national laws and the legal situation in the countries concerned. The Steering Committee has been tasked with raising awareness of the ICoC and elaborating an oversight mechanism that will govern the code and provide assurance that private security companies are operating in compliance with its principles.

Participants recognized the ICoC as an important means of oversight and accountability of those companies, who provide security for the society and state. The oversight mechanism of the ICoC, set forth in a Draft Charter, will allow for independent certification, auditing, and monitoring to assure signatory company policies and practices comply with the principles and the standards derived therefrom. No other international body assesses private security company systems and policies, or independently determines how these policies are put into practice. The Draft Charter aims to create a robust accountability mechanism and oversight body to do just that.

Speakers discussed the open and transparent process used to develop the Draft Charter, and how the Steering Committee welcomes input from the broader public on how the mechanism will operate. During the

discussion, participants emphasized the importance of involving all stakeholders in the development process so as to bolster the credibility of the mechanism. The active involvement and input of civil society groups was noted as particularly important. Some members of civil society are concerned that the mechanism may not be able to identify and address systematic human rights risks posed by private security providers to local populations. Participants discussed how the mechanism may address these concerns through on-the-ground performance assessments and the acceptance of third-party complaints. Performance assessments in the field can improve company standards by identifying issues related to personnel conduct and management and subsequently remedying those issues through a corrective plan. Third party complaints, in turn, will allow a member of the public to report on private security activity where they are adversely impacted, another form of oversight. In its current form, the mechanism would receive information and complaints and refer the complaints to the appropriate forum for resolution – potentially the company’s own grievance process, or perhaps a form of alternative dispute resolution.

Participants also discussed how the incorporation of the principles of the ICoC and the standards derived therefrom (discussed below) may be incorporated into contracts between PMSCs and their clients. This would be another important layer of oversight and increase the likelihood of PMSCs being held accountable in some way should any misconduct occur.

ISSUES OF PROFESSIONALISM

The use of standards—whether incorporated into business operations, trainings, or client contracts—was an important topic at the workshop and one panel was dedicated to discussing the development of common, professional standards to guide the contracting and management of PMSCs operating worldwide. During this panel, participants explored the generation of the ANSI/ASIS PSC standards specific to the management and auditing of private security functions. In Section 833 of the National Defense Authorization Act of 2011, the U.S. Congress mandated the Department of Defense to establish standard practices for the performance of private security. The intent was to improve the overall performance of PMSCs, regardless of the contracting party or site of operations. Private military and security companies under contract with all clients—whether governments, international organizations, private companies, and NGOs—affect the stability of an area and thus are consequential to U.S. military and policy goals. As many participants noted, the U.S. government hoped that standards, like codes of conduct, would “raise the floor” of PMSC behavior.

In 2012, ASIS International, a security industry association, with support and input from the Department of Defense and a wide stakeholder group, was able to create consensus-based quality management standards for private security providers. The first of four sets of standards was published by ASIS in March 2012, the second in April 2012. Both sets of standards have been recognized by the American National Standards Institute (ANSI) and may achieve international recognition.

Many workshop participants were actively involved in the standards drafting processes. There was agreement that the continued development of the standards in line with the implementation of the ICoC and Montreux Document, and without duplication, would improve PMSC operations. Like the principles of the ICoC, the ASIS standards can be incorporated into agreements between PMSCs and their clients to improve the delivery of security services. The standards are to be consistent with principles of the ICoC and Montreux Document, and taken together they are intended to assure that the performance of private security services is consistent with human rights and other legal obligations.

While recognizing their potential, participants stressed that the onus is on the private security company to improve its operations through implementation of the standards; the standards alone will not improve behavior or increase professionalism industry-wide. Participants did note that many companies already have such standards in place. Governments like the U.S. require business and operational standards in contracting

and management of PMSCs. Going forward, the U.S. will require the standards to be incorporated into its contracts with PMSCs, making the standards enforceable under traditional contract law.

Notably the standards have been recognized by the American National Standards Institute and are on their way to international recognition. Whether the standards will professionalize the global industry depends in part on whether they are taken up by companies internationally and audited thoroughly. Even if they are, though, some participants still doubted that they would have a significant effect on industry behavior.

PART II: PMSC CLIENTS AS REGULATORS AND ITS EFFECT ON GOVERNANCE

Recognizing the challenges of continuing use of private military and security companies without sufficient regulations in place, participants discussed the way forward. Many participants were both clients of PMSCs and involved in ongoing regulatory efforts at various levels, a vantage that many described as strategic. As clients of PMSCs, governments, private companies, and NGOs needing security were able to learn more about the industry and how it operates. This information affected their engagement with PMSCs and later their participation in regulatory efforts. One participant noted how the dual roles of consumer and regulator were not in tension, but represented blended interests as consumers and regulators both seek high-quality services from private security providers.

Participants also discussed how purchasing security services provided an opening for discussions between the public and private sectors, and civil society. As participants noted, these discussions have broadened the dialogue on challenges facing the industry to include a larger stakeholder group. The Steering Committee discussions surrounding the ICoC, discussed above, are an example. But governments, companies and NGOs are also pursuing their own regulatory agendas. These sometimes complement but other times conflict with multi-stakeholder approaches to governance, as the needs of each client and the issues that seize them are often different. Despite this, participants recognized that making stakeholders aware of the interaction between their actions as clients and regulators was important. If coordinated, these two roles provide more opportunities to influence industry behavior.

Building on these observations, subsequent discussions at the workshop addressed the roles that various participants play in the governance process. Their actions were discussed in relation to the Montreux Document, the ICoC, and the developing ASIS standards, as each set of participants—whether states, the UN, companies, and NGOs—were all involved in some way in these collaborative initiatives.

UNITED NATIONS

The United Nations, a client and regulator of PMSCs, has a complex approach to PMSC use and governance. Within the UN, initiatives to regulate the global private military and security industry and the UN's own use of PMSCs have developed through separate organs and agencies which are led—in the description of one participant—by 193 bosses, i.e. the 193 UN member states. Each member state has a different interest in the industry and different approach to its regulation.

In spite of this fragmented nature, the UN Working Group on the Use of Mercenaries has emerged at the forefront of UN regulatory efforts. The Working Group monitors mercenary-related activities in all their forms, including the activities of private companies offering military and security services on the international market. As discussants noted, the Working Group has operated on the belief that international regulation, accompanied by national regulation and a robust self-regulatory regime, is the best way to regulate the PMSC industry. The Working Group therefore introduced a draft international convention to regulate private military and security services, a document that it believes compliments the Montreux and ICoC efforts. At the

time of the workshop, discussants reported that Western states had almost uniformly objected to the draft at inter-governmental meetings related to its consideration. The Working Group has therefore changed course and instead of building consensus for the convention it is now assessing the regulatory landscape at the national level.

At the national level, the Working Group believes that existing laws are not commensurate with the gravity of risk posed by PMSCs to local populations. The functions PMSCs perform are those historically undertaken by militaries and police, and because they are authorized to use force are the most tightly-regulated government functions. PMSCs are not yet held to the same account. The Working Group hopes that through its mapping of and investigation into national structures it will be able to strengthen national PMSC legislation.

The involvement of other UN agencies in efforts to regulate the global PMSC industry was also discussed. The UN Office for Disarmament Affairs is one such agency. Though broadly tasked with disarmament diplomacy, the agency has been involved in PMSC oversight after some private security companies were found to engage in the illicit traffic of arms. The agency found that legal and policy tools to address PMSC issues were not in place, and it has since helped states develop laws related to private security. In addition the agency has disseminated the Montreux Document, ICoC, and other guidance to policy makers worldwide.

Workshop participants also explored the UN's own use of private security providers. Since the 1990s, UN agencies have employed PMSCs to protect personnel operating in dangerous environments and to provide advice, training, and logistical support to UN operations. Companies also provide military and security services for the UN through member state contingencies. The use of private security services by the UN has not been coordinated by a central UN body, but rather UN agencies and country-level managers have employed security forces on an ad hoc basis. When seeking security UN staff first work with the host government, then turn to member states for support. PMSCs are the last resort, but are nonetheless used.

As participants learned, there is an inter-agency security management group in place with 64 UN subsidiary bodies participating. Leading this group is the UN Department of Safety and Security (DSS). DSS oversees the security for UN personnel and programs worldwide, and estimates that the UN spends almost \$1 billion on security each year. Discussants noted that it is difficult to estimate what portion of this amount is spent on private security, as each UN agency and unit (whether authorized to or not) undertakes its own procurement of such services. In an attempt to understand the use of PMSCs within the UN system and standardize policy related thereto, in 2011 DSS initiated the development of system-wide internal policies and procedures for security contracting. The Working Group was involved in dialogues surrounding this policy development. At the time of the workshop, the internal UN policies were near completion and undergoing review by a number of UN governing bodies.ⁱⁱ As discussants explained, the mandatory policy would be consistent with existing UN guidelines, the Montreux Document, ICoC, and demand adherence to applicable national legislation.

Discussants remarked on the importance of the UN action on this front, while recognizing that there is still a complicated path forward for the UN. The work to be done within the UN system must be coordinated among member states, and also include the external stakeholders that are helping to develop other PMSC regulations.

GOVERNMENTS

The government discussants present at the workshop made clear that different governments face different challenges with respect to PMSCs. The three governments explored—China, South Africa, and the United States—offered stark contrasts but also revealed lessons learned.

CHINA

Of the three countries, China had the most nascent private security industry and correspondingly the fewest regulations in place. The industry emerged in China in 1984. Now, China is home to over 3,000 private security companies, employing more than 4.2 million people. The industry was first regulated in 2010 when the government required private security companies and their personnel to obtain licenses from municipal police departments. As a discussant explained, the law thus impacts only those companies that operate domestically and not those seeking to provide security services abroad. Foreign PMSCs may apply for licenses to operate within China, following the same licensure requirements as locally-owned companies.

The Chinese government is a consumer of private security services both for events at home (the Olympics is an example) and overseas (embassy protection). However, when hiring private security companies to operate in other countries, discussants with knowledge of Chinese practices explained that China uses local guards and does not hire Chinese companies to work abroad. Because of its activities as a client in this industry, China is aware that Chinese companies are interested in meeting their government's overseas security needs. Discussants believed that China has not allowed this to date and has no regulations in place were the decision to export security services be made.

This does not mean that China has not been involved in international efforts to regulate private military and security services. China participated in the drafting of the Montreux Document and endorsed it along with seventeen other states on 17 September 2008. The Montreux Document reaffirms the obligation of states to ensure that private military and security companies operating in armed conflicts comply with international humanitarian and human rights law. During discussions at the workshop, it was apparent that China participated in this process because the government believed that the Document has merit and was in the interest of all countries. It was not apparent, however, whether China was implementing the Document's obligations and good practices under international law into national measures.

SOUTH AFRICA

Like China, South Africa has seen its domestic private security industry thrive in recent years. In addition to a robust domestic market, many foreign private security companies recruit former South African military personnel to work abroad. In post-apartheid South Africa, many former members of the military found careers in private security and the trend of former military becoming PMSC personnel continues to this day.

Unlike China, South Africa is not a client of PMSCs. As participants learned, despite the number of South African citizens employed in private security, the South African government has passed legislation in recent years that severely restricts PMSC operations within the country. This legislation was the result of wide-spread concerns that private security company operations have a destabilizing effect on the African Continent. Thus a complex domestic regulatory framework for governing the industry has been put in place.

In addition to domestic laws, South Africa has participated in international regulatory efforts. It was involved in the Montreux process and is a supporter of the Montreux Document. It also chairs the United Nations Open-Ended Intergovernmental Working Group to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies. South Africa has not supported the ICoC or its Draft Charter, arguing that a binding international instrument on PMSCs is far more likely to be effective than a voluntary code.

UNITED STATES OF AMERICA

Of the three states discussed, the United States most clearly faced the tension of being both a client and a

regulator. Among participants, it was discussed as a conflict in mission: U.S. government agencies like the Department of Defense are tasked with completing operations to the best of their ability with the resources available, while U.S. government regulators focus on compliance. Tensions in these roles pose problems for the United States in setting forth a coherent approach with respect to private security services across agencies, oversight bodies, and regulators.

Participants generally agreed that the U.S. cannot operate in overseas combat and contingency environments without PMSCs. The very presence of PMSCs in such complex settings, though, raises issues of oversight and accountability. Thus far, the U.S. has not successfully integrated PMSCs into its overseas operations. Chain of command and adequate military-contractor training are just two examples of this larger issue. Even though issues like contractor integration and training are being addressed to some degree, due to short rotations of State Department and Department of Defense personnel in warzones those that do learn how to best utilize PMSCs are often on their way home once that knowledge is gained.

Participants noted that U.S. government personnel, and in particular the people on the ground with PMSCs, need to understand the regulations and corresponding obligations that apply to the government and its use of private security. Even more broadly all private security providers in an area of interest to the U.S., regardless of contracting entity, should be aware of and comply with a common set of standards. As the U.S. Department of Defense has noted, misconduct by any single security contractor has negative effects on the operations of PMSCs everywhere. For that reason, the U.S. has actively supported international efforts for regulation and oversight of PMSCs. The Departments of Defense and State support and promote the Montreux Document; are involved in the development and implementation of the ICoC; and the DOD in particular has been instrumental in the development and dissemination of the ASIS standards.

The U.S. approach in supporting and engaging in innovative, international efforts to change security service practices reflects its belief that measurable standards have the potential to mitigate the risk of human rights impacts posed by PMSCs. As one participant said, international efforts involving a broad stakeholder group provide a forum for a real-time conversation about regulatory issues. For the U.S., those efforts complement its existing regulations, though they are not a substitute for effective accountability under the law. International efforts do fill an important gap by providing a means for facilitating responsible provision of security services, a gap that the U.S. cannot remedy with unilateral action or without the cooperation of industry and civil society.

Though simultaneously acting as a client and a regulator pose tensions for the United States, the U.S. can also use its purchasing power as a client to support its regulatory efforts. Requiring that all PMSCs under U.S. government contract comply with the new ASIS standards creates market pressures in support of that regulation.

PRIVATE COMPANIES

When the conversation turned to the use of PMSCs by private companies, particularly those in the extractive industry, similarities between company and government approaches emerged. It has become increasingly common for companies operating in unstable areas to hire private security. Companies, like governments, are not interested only in the bottom-line; in addition to cost as a factor in hiring decisions, companies seek high quality-security providers that will operate in a manner that respects human rights and other legal and ethical standards.

Discussants were asked how is this done in practice: How do companies decide whether to hire PMSCs and subsequently who to hire? Does their role as client also have regulatory implications?

As discussants explained, private companies operating overseas do so with the consent of the government and in many situations are required by the government to utilize state security forces should the need arise. Working with government forces can be challenging, and companies prefer to use their internal security personnel when possible. Decisions to hire PMSCs are sometimes made, but only after a thorough risk-analysis process, similar to the process set forth in the ASIS standard. Not only do large companies ensure that the security forces they hire operate in compliance with local laws and regulations, but also that they operate in a responsible manner that minimizes risks to the local community. Enterprise risk management is also undertaken by companies to protect business interests and value to stakeholders. Any misstep or misconduct by company-hired security can have tremendous financial ramifications as the bad acts are often attributed to the company (and not necessarily to the security provider). Such risks can be mitigated by hiring reputable companies; through contractual terms including termination clauses; by requiring adequate vetting and training of security employees; and through periodic oversight audits.

Discussants also expressed company reliance upon the Voluntary Principles on Security and Human Rights when considering whether and how to use private security. Established in 2000, the Voluntary Principles on Security and Human Rights—an initiative by governments, NGOs, and companies—are non-binding guidelines designed specifically for the oil, gas, and mining industries. The Voluntary Principles provide guidance to extractives companies on maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms.

As signatories to the Voluntary Principles, companies pledge to use security services in a way that respects human rights. And through their hiring and management processes, company-clients can provide de facto regulation by demanding higher standards from private security. Higher standards can include compliance with the principles of the ICoC, Voluntary Principles, and ASIS standards, all of which often mirror corporate policies already in place. Such standards may be incorporated into contractual agreements between company and security provider as an added enforcement mechanism.

While participants remarked on the advances standards have made in improving the behavior of private security companies working for companies in the extractive sector, they argued that compliance with performance benchmarks set by companies do not relieve the government of responsibility to regulate in this area. A company cannot be solely responsible for the behavior of PMSCs in its employ and can play only a limited role in oversight and accountability when monitoring its security agreements. Though client-side oversight is important it is no substitute for legal regimes.

NGOs

Like companies, some NGOs operating in complex and dangerous areas throughout the world utilize private security services. However, NGO use of PMSCs has been controversial and some humanitarian relief and development aid workers resoundingly object to the use of security even when operating in unsafe environments. NGO use of private security has become more accepted in some circles, under some conditions, as perceived neutrality has ceased to protect aid workers from violent acts. As attacks on aid workers rose, NGOs developed risk mitigation and security strategies which included the use of hired security if appropriate. Discussants reflected on this change over time and how now various types of NGOs are contracting with or affected by private security companies.

Some speakers asked that participants reflect on the variety of and differences among NGOs and avoid generalizations when speaking of NGO security and security strategy. Despite the differences among NGOs and their views on private security, though, most participants agreed on the need for more NGO oversight, advocacy, and participation in this area. While only some NGOs hire private security providers for protection in the field or for security training, many more NGOs—particularly those delivering

humanitarian and development assistance—interact with private security providers operating in the same area. Both the client and observer NGOs can play a critical role in affecting the behavior of private military and security companies.

More than one participant suggested that NGOs become more involved in the ICoC process, and remarked that at this time the civil society pillar set forth in the Draft Charter may be too narrow. Many remarked on how NGOs must work together to both (1) establish NGO security as a specialized field and advocate on behalf of aid workers to demand better security, and (2) coordinate amongst one another to advocate for more comprehensive regulation of the PMSC industry as a whole. With respect to the first recommendation, it was pointed out that NGOs, as organizations, owe a duty of care to their workers and must work to mitigate and manage the risk posed in the field. This may include using private security, and if it does the PMSCs should be trained and able to understand the nuances of NGO operations. The second recommendation rested on the ability of NGOs to have a tremendous impact on the protection of human rights. NGOs could work together to develop voluntary regulations that apply to PMSCs; promote training on human rights and security; and measure impacts of such efforts through research and analysis. And those NGOs that are also consumers of private security can voice concern if companies do not follow principles outlined in the ICoC and ASIS standards.

CONCLUSION

Discussions at the workshop concluded with comments on how the many stakeholders present could contribute to the regulatory efforts now underway. This included further exploration of the Private Security Monitor and how it can be a more useful tool for researchers, policymakers, and others interested in the PMSC industry. It was also suggested that an annual workshop bringing together these different communities to discuss ongoing issues continue. As the private military and security services industry continues to evolve in response to market needs, collaboration among all stakeholders, public and private, is needed. Whether the ongoing development of regulations can keep pace with a rapidly evolving industry is unclear, but reinforcing regulatory initiatives through well-crafted cooperation-based initiatives may provide additional means for facilitating the responsible provision of security services. ■

ENDNOTES

ⁱ See <http://www.youtube.com/watch?v=2Unx2xYlc8g>

ⁱⁱ Those policies and a sample contract for security services were published in November 2012.
http://psm.du.edu/international_regulation/un_initiatives/index.html