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Daniel Warner

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Establishing Norms for Private Military and Security Companies

Keywords

Industry, Regulation, Government Contracts, Human Rights Law, Humanitarian Law, Law Enforcement, Military Law

ESTABLISHING NORMS FOR PRIVATE MILITARY AND SECURITY COMPANIES

DANIEL WARNER

SOME PERSONAL REFLECTIONS

In the Spring of 1992, in a lovely setting in Sweden just north of Uppsala, I attended a conference of the Life & Peace Institute on “The Challenge to Intervene: A New Role for the United Nations?” The setting was lovely. Sigtuna is on beautiful Lake Malaren and the hosts made every effort to see to our comfort.

The actual conference, as I remember, was not as stimulating as the surroundings. What I do remember vividly, however, some 20 years later, was that I made a comment at a plenary session, followed by a comment by a small distinguished gentleman with a decidedly Indian accent. The session soon ended and the distinguished gentleman abruptly walked up to me and announced, “Let’s go for a walk; we are going to be friends for life.”

I was neither shocked nor offended by the comment. Indeed, we went for a long walk along the lake, and continued our conversations bilaterally throughout the conference. In spite of all the efforts of the conference organizers, the conference will not go down in history as having made a major contribution to peace in the world. However, the distinguished gentleman with a decidedly Indian accent had made an astute prediction: Ved and I became friends for life. Whether it is in Denver or somewhere else in the United States, whether it is in Geneva or somewhere else in Europe, whether it is in serious discussions about the world or exchanges about family; the distinguished gentleman with a decidedly Indian accent was more than prescient and we have become more than just friends.

We have not been able to see each other often, but Ved’s friendship has inspired me in several ways. First, he has opened a competition with me that he doesn’t even know about. When Ved was younger, he vowed to visit every country in the world. He did quite well, except that at the time of his travels there were certain large confederated countries that eventually broke up, such as the Soviet Union and Yugoslavia. When I first visited Ashgabat and Almaty, and Skopje and Ljubljana; I was so proud because I felt that I was in places Ved had never seen. I had one upped him.

Second, on my first visit to Denver, Ved introduced me to many people; all of them his best friends, including federal judges. But what I remember most was the way he introduced me to the people working in the university cafeteria as his best friends as well. I had not seen that kind of empathy and openness since I was on the campaign trail with Bobby Kennedy. Everyone admired and loved Bobby, and I sensed that all the people at the university admired and loved Ved in many of the same ways, although Ved was not looking for their votes. He was genuinely concerned about them, as they were about him.

Finally, I can mention one other Nanda inspiration. Several years ago, Ved had an emergency operation that should have required some serious R&R. Instead of resting, he resumed teaching at the university in a wheel chair with 67 stitches still in his leg. Soon after, against doctor's orders and to the consternation of his family and the Chancellor, he flew to Geneva for a meeting of an organization that will remain nameless, but which, like the Sigtuna conference, will never change the world. When I met Ved at the airport and tried to scold him for his irresponsible behaviour, he looked at me with his doleful eyes and said, "Danny, they asked me to come and I just couldn't let them down."

From speaking to youngsters in elementary schools in Denver to explaining international politics in his tuxedo to the Lions Club; from participating in doctoral seminars for Ph.D. students at prestigious universities to vulgarizing complex problems in public media including print and television; and from consulting with the most grass-roots non-governmental organizations throughout the world to advising leaders at the highest levels in the innermost circles of governments, Ved has always been there for all who asked, and in this way, he is also an inspiration to all of us.

At a prestigious international law conference, when former U.S. National Security Advisor and Secretary of State Condoleezza Rice said, "All I know about international law I owe to Professor Nanda," she was speaking for thousands if not millions of people throughout the world. He has not just taught law; he has lived and exemplified a life of dignity and respect for all.

NORM SETTING FOR PMSCS: BACKGROUND

In his distinguished academic career, Ved has written extensively on so many subjects, such as human rights, graduate legal education in the United States, international environmental law, international dispute settlement in the United States, nuclear weapons and the World Court, refugee law and policy, law and transnational business transactions, and law in the war on international terrorism. In all he has written, he has stressed the role of law and particularly international law. He has tried to grasp the role of the normative in

setting some type of standards for societal behaviour within and outside the United States. Whether in the private or public sectors or whether within domestic or international law, as a proper disciple of Myers McDougal, Harold Laswell and the New Haven School of Yale Law School, Ved has always been concerned with the interaction between society and rules and norms, and not only in the formal sense of treaties and domestic legislation. What follows is a very current example of the international community, under Swiss leadership, trying to establish rules and norms in the intersection between public and private sectors, something very close to Ved's interests. In addition, the subject of the intersection and private military and security companies is of the highest importance as violence is no longer limited to interstate conflicts.

Recently, various sources above the state level, such as supranational bodies like the European Union, and below the state level, such as non-state actors like multinational corporations, non-governmental organizations (NGOs), the media, and armed groups, have challenged the state-centric system initiated in the Peace of Westphalia. In this new environment, there are several new private threats to international security; among them piracy, organized crime, and citizen militias.¹ Where States are no longer able or are unwilling to provide security, private actors have stepped in or governments have hired them to provide security. Private threats to peace and security have increased and private solutions to threats to peace and security have increased as well.² States and international organizations, such as the United Nations, are hiring companies to provide traditional public functions in the security sector, including military operations, mission support, and security maintenance. Private companies have also been involved in training police forces and state armed forces as well as collecting intelligence information.³ In addition, multinational

1. See generally Anne-Marie Buzatu & Benjamin S. Buckland, *Private Military & Security Companies: Future Challenges in Security Governance* (DCAF Horizon 2015, Working Paper No. 3, 2010), available at http://se2.dcaf.ch/serviceengine/Files/DCAF09/124737/ipublicationdocument_singledocument/da297b1e-c0e5-4076-94fd-67ce945163a6/en/PMSC%20web%20version.pdf. This paper provides a most helpful overview of the situation. The following summarizes much of the paper.

2. In terms of security sector reform and development, Abrahamsen and Williams makes this point: "As the links between security and development have been increasingly recognized, Security Sector Reform (SSR) has become a central part of development policy. Following a traditional Weberian concept of the state, these programmes are almost exclusively focused on the public security sector, neglecting the extent to which people in developing countries have come to rely on private security providers for their day-to-day security needs." Rita Abrahamsen & Michael C. Williams, *Security Sector Reform: Bringing the Private In*, 6 CONFLICT, SEC. & DEV. 1, 1 (2006).

3. See Simon Chesterman, *'We Can't Spy...If We Can't Buy!': The Privatization of Intelligence and the Limits of Outsourcing Inherently Governmental Functions*, 19 EUR. J. INT'L L. 1055, 1055-74 (2008). Chesterman notes that private contractors are more

companies and humanitarian organizations hire private security companies for protection⁴.

In the new security environment, private military and security companies (PMSCs)⁵ have developed as important actors in the security sector. Indeed, the growth of private security companies has become a worldwide phenomenon. Certain statistics from the recent Small Arms Survey (Survey) are helpful in understanding the growth of this phenomenon.⁶ Based on a review of seventy countries, the Survey estimates that the formal private security sector employs about twenty million people, which exceeds the number of police officers at the global level, and holds between 1.7 and 3.7 million firearms.⁷ Estimates show that the security market is worth about \$100-165 billion and growing at 7-8 percent.⁸ The company G4S, for example, has an estimated 530,000 employees in 115 countries and Securitas has 260,000 people in 40 countries.⁹

Where I am now affiliated, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Swiss government have been in the forefront of developing norms and principles for States as well as a Code of Conduct for companies in this area; they are trying to bring some set of rules and norms to the behaviour of States and private security firms contracted, to hold the States and firms accountable and to establish some form of oversight. There are several precedents for this effort of private/public partnerships. For example: Voluntary

present than public officials in numerous intelligence services of the United States government.

4. See ABBY STODDARD, ADELE HARMER & VICTORIA DIDOMENICO, HUMANITARIAN POL'Y GROUP, *THE USE OF PRIVATE SECURITY PROVIDERS AND SERVICES IN HUMANITARIAN OPERATIONS* (2008), available at www.odi.org.uk/resources/download/2816.pdf.

5. The Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies During Armed Conflicts [hereinafter *Montreux Document*] defines PMSCs as “private business entities that provide military and/or security services, irrespective of how they describe themselves. Military and security services include, in particular, armed guarding and protection of persons and objects, such as convoys, buildings and other places; maintenance and operation of weapons systems; prisoner detention; and advice to or training of local forces and security personnel.” Int’l Comm. of the Red Cross, *Montreux Document* 9 (August 2009), available at http://www.icrc.org/eng/assets/files/other/icrc_002_0996.pdf.

6. SMALL ARMS SURVEY 2011, STATES OF SECURITY 101-27 (2011). The Survey refers to private security companies as PSCs while we refer to private military and security companies (PMSCs), but we are talking about the same phenomena as the Survey indicates that such distinction is misleading (p. 102) and we will continue, therefore, to use PMSCs.

7. Abrahamsen and Williams estimate that the ratio of private security guards to police in developed countries is approximately 3:1, while in developing countries it may be as high as 10:1 or more. Abrahamsen & Williams, *supra* note 2, at 2.

8. SMALL ARMS SURVEY 2011, *supra* note 6, at 103.

9. *Id.*

Principles on Business and Human Rights initiative deals with the extractive industry;¹⁰ John Ruggie is the Special Representative of the UN Secretary-General on Business and Human Rights dealing with “Protect, Respect and Remedy”¹¹ in the Global Compact. These two precedents have influenced two recent attempts to establish norms for States and companies in dealing with private security providers. What follows is a brief description of those two attempts.

THE MONTREUX DOCUMENT

In 2008, the Swiss Government and the International Committee of the Red Cross (ICRC),¹² following a series of intergovernmental meetings over a three year period, joined with seventeen countries including, the United States, the United Kingdom, China and France, to endorse an agreement known as the “Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies During Armed Conflicts” (Document).¹³ It is the first international document to describe international law as it applies to PMSCs in the context of armed conflicts and list good practices to help States implement their international obligations through national measures. The Document is designed to be a guide to the legal and practical issues involving PSMCs. The two stated objectives are: 1) to clarify existing obligations of Contracting States, Territorial States and Home States; and 2) to develop good practices, regulatory options and other measures for the same at the national and international levels.¹⁴ To date, over thirty states have endorsed the Document of twenty-four pages and one hundred operative paragraphs. There are no legal obligations involved.¹⁵ Indeed, the Preface clearly states that it is “not a legally

10. See *Voluntary Principles on Security and Human Rights*, SECRETARIAT FOR THE VOLUNTARY PRINCIPLES ON SECURITY AND HUMAN RIGHTS, <http://www.Voluntaryprinciples.org/> (last visited Sept. 18, 2011).

11. See *U.N. Secretary-General's Special Representative on Business & Human Rights*, BUS. & HUMAN RIGHTS RES. CENTRE, <http://www.business-humanrights.org/SpecialRepPortal/Home/> (last visited Sept. 18, 2011).

12. It is somewhat unusual for the ICRC to take this type of initiative and equally unusual for the ICRC to be directly associated with the Swiss Government in this way. The independence of the ICRC from the Swiss Government is extremely important to its particular humanitarian neutrality. For a discussion of the relationship between the ICRC and the Swiss Government and an excellent political understanding of the ICRC, see DAVID P. FORSYTHE, *THE HUMANITARIANS: THE INTERNATIONAL COMMITTEE OF THE RED CROSS* (2005).

13. *Montreux Document*, *supra* note 5.

14. *Id.* at 9.

15. For an excellent insider's overview of the negotiations, see James Cockayne, *Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promise of the Montreux Document*, 13 J. CONFLICT & SEC. L. 401, 401-28 (2008).

binding instrument and does not affect existing obligations of States under customary international law or [treaty law].”¹⁶

The Preface of the Document lays out three potential relationships between PMSCs and States: Contracting States, including, as appropriate, when PMSCs subcontract with other PMSCs; Territorial States on whose territory the companies operate; and Home States where the PMSCs are registered or incorporated.¹⁷ The importance of these definitions and the inclusion of all three types overlapping in most of the Document is that “they constitute an explicit recognition by 17 highly affected states that they have a specific duty to protect human rights during the operation of PMSCs operating from their territory, or with whom they contract *regardless of the extra-jurisdictional location of the activities of the private entity*”.¹⁸

In Part One, the Document recalls certain existing legal obligations of States regarding private military and security companies.¹⁹ It lays out the *lex lata*. Contracting States, the Document notes, have an obligation within their power to ensure the PMSCs they contract respect international humanitarian law (IHL).²⁰ It is “a very public affirmation by a diverse group of states, including the United States, of the applicability of international humanitarian law (IHL) and human rights to contemporary armed conflict.”²¹ It is a clear reminder that States do not act in a legal vacuum in their relationships with PMSCs.

The difficulty, as the International Court of Justice (ICJ) saw in the *Nicaragua v. United States* case,²² is the degree to which a court can directly attribute the actions of a PMSC to a government. The ICJ, you remember, said that there was not enough evidence to impute responsibility for the flow of arms between Nicaragua and insurgents in El Salvador.²³ Thus, the Document specifically refers to PMSCs contracted by States, eliminating any potential confusion. Article 7 of Part I says, “Although entering into contractual relations does not in and of itself engage the responsibility of Contracting States, the latter

16. *Montreux Document*, *supra* note 5, at 9.

17. *Id.* at 9-10.

18. Cockayne, *supra* note 15, at 406. (Italics in the original) Cockayne goes on to recount the controversy during the negotiations concerning the exact nature of that duty.

19. *Montreux Document*, *supra* note 5, at 9.

20. *Id.* at 12.

21. Cockayne, *supra* note 15, at 403.

22. *Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. the U.S.)*, 1986 I.C.J. 14, ¶¶ 109, 115 (June 27). In its judgment, the Court said: “there is no clear evidence [that] the United States . . . actually exercised such a degree of control . . . as to justify treating the contras as acting on its behalf . . . [For the United States to be legally responsible], it would in principle have to be proved that the State had effective control of the military or paramilitary operations in the course of which the alleged violations were committed.”

23. *Id.* ¶109.

are responsible for violations of international humanitarian law, human rights law, or other rules of international law committed by PMSCs . . . where such violations are attributable to the Contracting State, consistent with customary international law.”²⁴ We also note here that the Government of the United Kingdom has decided not to engage any PMSC that has not shown adherence to the Code of Conduct.²⁵

Territorial States, in the Document, also have the obligation, within their power, to ensure PMSCs operating on their territory respect IHL. These States also have the obligation to pass legislation necessary to provide penal sanctions to persons violating the law as well as to prosecute, extradite or surrender persons suspected of having committed crimes under international law on their territory. Home States and other States have many of the same obligations including ensuring respect for IHL, similar to the obligations of the signatories to the Geneva Conventions. Provisions are made for those in violation or in serious breach of IHL.

Of particular importance and in anticipation of the International Code of Conduct for Private Security Service Providers (ICoC), the Document has a section on PMSCs and their personnel. The Document calls for respect for IHL and human rights law imposed by national law, although the status of the personnel is not clear. The Document says in paragraph 24, “The status of the personnel of PMSCs is determined by international humanitarian law, on a case by case basis, in particular according to the nature of the circumstances of the functions in which they are involved.”²⁶ If they are civilians, for example, they cannot be fired upon. If they are incorporated into the regular armed forces of a State or members of a group under a command responsible to the State, then their status changes, as does the question of prisoner of war status according to the relevant Geneva Convention.

There are, as one would imagine, considerable debates in international law concerning the engagement of PMSCs in armed conflicts.²⁷ The question is whether in situations of armed conflict (inter or intrastate) IHL and international criminal law apply to PMSC employees. Most lawyers agree that if serious violations occur, national and international courts can prosecute the employees. IHL and human rights law also apply to States contracting them, States on whose territory they operate, and States where they are incorporated.

Some arguments focus particularly on the status of the employees. Are they civilians or combatants? Most of the employees do not partake

24. *Montreux Document*, *supra* note 5, at 12.

25. Guy Pollard, Charge D’Affaires, UK Statement at International Signing Ceremony: Private Military and Security Companies (PSMCs) (Nov. 9, 2010).

26. *Montreux Document*, *supra* note 5, at 10.

27. See SMALL ARMS SURVEY 2011, *supra* note 6, at 109.

in actual hostilities, but that can be a blurry distinction if they are involved in guarding a military base or intelligence gathering. The traditional ICRC delineation of civilians and militants loses some of its meaning here. Courts may hold superiors of PMSCs liable for international crimes committed by personnel under their effective authority and control, which, as previously mentioned, is always problematic to prove.²⁸ For the moment, courts have prosecuted very few PMSC personnel for IHL, human rights or criminal violations, although incidents of armed violence by employees in Afghanistan and Iraq have caused international furor.²⁹

Part Two of the Document deals with good practices so as to assist States, who are not legally bound, to implement their obligations with the proviso that “any of these good practices will need to be adapted in practice to the specific situation and the State’s legal system and capacity.”³⁰ The Introduction has several caveats repeating the broad spectrum given to States to apply the practices where appropriate and possible. The recommendations, it is noted, may also apply for international organizations, NGOs and companies. The Document makes various suggestions concerning the procedure and criteria for the selection and contracting of PMSCs, as well as the terms of contract with PMSCs, including numerous quality indicators. It encourages Contracting States to monitor compliance to ensure accountability. It gives special attention to the granting and terms of authorization to a PMSC to operate by the territorial State as well as the Home State, including sanctions if violations occur.

The significance of the Part Two is the providing of suggestions or guidance on what good practices by States might be in dealing with PMSCs. There are 73 “good practices” which have the potential to be the cornerstone for the further development of regulating PMSCs, such as the follow-up Code of Conduct.³¹ In general, however, while the final Document lays out the existing laws and the good practices, it definitely moved away from attempts in earlier versions to emphasize victims’ rights to finally stress the legal obligations of the parties. In that sense, the Document fell below the expectations of human rights groups such as Amnesty International. But, in general, States were enthusiastic as well as industry representatives as they saw the Document as a positive

28. “Prosecution by the International Criminal Court requires that an individual’s actions meet criteria for a crime under the ICC Statute. The ICC has jurisdiction over individuals only, not corporations. This means that the Court has jurisdiction over the managers of PSCs for negligence in the prevention of the commission of crimes by their employees.” *Id.* at 128 n.13 (citation omitted).

29. “In cases such as Iraq . . . PMSC employees were granted immunity from Iraqi law from 2004 to 2009. . . .” *Id.* at 110.

30. *Montreux Document*, *supra* note 5, at 12.

31. *Id.* at 12-26.

step toward clarifying the legal obligations of States and companies as well as finding an operative mechanism for regulation to ensure accountability.

THE ICoC

In response to industry demands, the Swiss government was involved in a second initiative to establish international standards for private security companies. The ICoC³² is a supplementary measure to any national governmental measures, but it stands as an outstanding example of an industry trying to self-regulate. Its objectives are to establish clear standards for private security providers based on international human rights law as well as to develop an oversight and compliance mechanism. In its explanation of the ICoC and how to become a Signatory Company, the Swiss Government specifically states that “[t]he ICoC itself creates no legal obligations and no legal liabilities on the Signatory Companies, beyond those which already exist under national or international law. However, you will be publicly affirming your responsibility to respect the human rights of, and fulfill humanitarian responsibilities towards, all those affected by your business activities.”³³

After a series of workshops with different stakeholders and a conference at Wilton Park in 2009, the Swiss Government and the stakeholders generally agreed on the need for a structure for the ICoC. Members of the private security industry and the Swiss Government, with the help of certain facilitators such as DCAF, agreed on a final version in September 2010.³⁴ Fifty-eight companies finalised and signed the ICoC in November 2010.³⁵ By February 1, 2011, the number of Signatory Companies had risen to seventy-one.³⁶ Currently, a multi-stakeholder Steering Committee (StC) is developing the operational framework for the oversight institution.³⁷ Whereas the Document was mostly a government initiative, the ICoC was an industry reflection on

32. See GENEVA CENTRE FOR THE DEMOCRATIC CONTROL OF ARMED FORCES, <http://www.dcaf.ch/Topics/Detail?lng=en&id=121492> (last visited Sept. 30, 2011); see also INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS, <http://www.icoc-ppsp.org> (last visited Sept. 30, 2011).

33. *Outline About How to Become a Signatory Company*, INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS, http://www.icoc-ppsp.org/uploads/PSC_-_2011-01-17_-_ICoC_becoming_a_signatory_company_DCAF.pdf (last visited Sept. 30, 2011).

34. *Fact Sheet*, INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS, http://www.icoc-ppsp.org/uploads/Fact_Sheet_ICoC_March_2011.pdf (last visited Sept. 30, 2011).

35. *Id.*

36. *Id.*

37. *Id.*

what it could do regarding respect for international humanitarian and human rights standards.

The Preamble states that “the Signatory Companies commit to the responsible provision of Security Services so as to support the rule of law, respect the human rights of all persons and protect the interests of their clients.”³⁸ The ICoC is recognized as a founding instrument, and the Signatories commit to working with multi-stakeholders to establish objective and measurable standards based on the ICoC with “external independent mechanisms for effective governance and oversight.”³⁹ The ICoC mentions Certification as the ultimate goal based on the company’s ongoing monitoring, auditing and verification.⁴⁰

The general provisions of the ICoC relate to performing security services in complex environments. It explicitly states that it neither refers to legally binding obligations nor seeks to limit or prejudice existing international law. It is, quite simply, an example of soft law, such as the Deed of Commitment of the NGO Geneva Call dealing with armed non-state actor groups and the use of antipersonnel mines.⁴¹ Just as the Deed of Commitment is not a legal document, although it has been signed by almost forty armed non-state groups in the City Hall of Geneva with the Republic and Canton of Geneva as Depository, the ICoC is a political commitment by companies to voluntarily follow a code of conduct.⁴²

38. INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS 3 (Nov. 9, 2010), http://www.icoc-ppsp.org/uploads/INTERNATIONAL_CODE_OF_CONDUCT_Final_without_Company_Names.pdf.

39. *Id.* at 4.

40. *Id.*

41. See ANDREW CLAPHAM, HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS 291 (2006); *Humanitarian Engagement of Armed Non-State Actors*, GENEVA CALL, <http://www.genevacall.org> (last visited Sept. 30, 2011). As far as differences between the ICoC and Geneva Call’s (GC’s) Deed of Commitment (DoC),

. . . the key mechanisms for oversight, certification and implementation of the ICoC are still under discussion, unlike the Geneva Call procedures which are comparatively well in place now. The ICoC process allows companies to sign the ICoC before going through any kind of ‘certification’ or external monitoring, the procedures for which are expected to be developed by the end of 2011. This is different from the Geneva Call approach, as the organization holds sustained dialogue, meetings and discussions on implementation before an armed non-State actor can sign a DoC. Presumably, once the ICoC procedures are established, signatory PMSCs will need to undergo a similar vetting process before becoming certified and will also be subjected to regular external oversight. But until this happens, there will be no way of assessing whether the more than 150 companies that have already signed the ICoC are actually complying with its important provisions.

Correspondence from Nicolas Florquin, Senior Researcher, Small Arms Survey, to author (July 25, 2011) (on file with author). Nicolas Florquin worked for several years for Geneva Call and was the main author of the chapter on PMSCs in the Small Arms Survey 2011.

42. See GENEVA CALL, *supra* note 41.

Not only does the ICoC relate to the companies in general, it has very specific principles regarding the conduct of personnel, especially dealing with the use of force, detention, and apprehending persons. Separate sections deal with the prohibition of torture or other cruel, inhuman or degrading treatment or punishment as well as sexual exploitation and abuse or gender-based violence and human trafficking. The ICoC includes management and governance such that the ICoC becomes incorporated into all aspects of company policy. The ICoC also demands diligence as far as the hiring of sub-contractors, with special mention of the management and use of weapons.⁴³

Among the companies that signed in Geneva on November 9, 2010, it is estimated that at least 80 percent of large, internationally-operating companies have signed, but there are many small companies around the world and it is difficult to estimate their importance.⁴⁴ It is anticipated that another forty plus companies will be added to the list of Signatories by August 1, 2011, but many of them are small maritime private security companies.⁴⁵ Estimates are that companies representing around 80 percent of money spent on international private security services are included in the Signatory Company list.⁴⁶

The Document and the ICoC are reactions to the growing privatization of the use of force and the rapid development of the private security sector. Many government and industry abuses have been well documented and there is no need to review them here. We all know about Blackwater, XeServices LLC and Erik Prince. Reports that the Central Intelligence Agency hired Blackwater to assassinate al-Qaeda members or the possible use of PMSCs to conduct authorized peacekeeping operations have been hotly debated.⁴⁷ What is important to note, and in relation to much of Ved's work, is the developing crystallization of norms and principles to deal with the interaction between the public and private sectors, and between the rule of law and societal behaviour and to try to correct abuses. Ved is a lawyer, but he is much more than that and the examples of the Document and ICoC are excellent reminders of the continuing interrelationship between the political and the legal, something very close to Ved's preoccupations and the New Haven School, which so influenced his career. Questions of security, equality, legitimacy and the protection of human rights are never far from his agenda.

43. See SMALL ARMS SURVEY 2011, *supra* note 6, at 109.

44. Correspondence from Anne-Marie Buzatu to author (July 27, 2011) (on file with author).

45. *Id.*

46. *Id.*

47. Mark Mazzetti, *Blackwater Loses a Job for the C.I.A.*, N.Y. TIMES, Dec. 12, 2009, <http://www.nytimes.com/2009/12/12/us/politics/12blackwater.html?ref=blackwaterusa>.

CONCLUSION

I am neither a lawyer nor an international jurist. I do know enough about the law to see in all of Ved's professional work a driving force that Lon Fuller, the famous Harvard Law School Professor, spoke of as "the inner morality of law" and its "unfolding purpose." Justice and dignity drive Ved in his personal and professional lives to an extent that inspires and humbles those who try to emulate his example. There are those who write and preach about human rights, and there are those who live human rights. There are those who write and preach about being international; Ved lives the international and he has brought the University of Denver into the forefront of international higher education. In both his personal and professional lives, Ved has been a unique example of humanizing whomever and whatever he encounters.

Indeed, the small distinguished gentleman with a decidedly Indian accent has become more than a friend to me, as he has been to so many people, and for that I feel blessed as should all who have had the privilege to know him and work with him.