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A Gendered Intersectional Analysis of the Private Security Industry

Abstract

This thesis conducts an intersectional gendered analysis of the privatization of wars and armed conflicts through the use of private military and security companies (PMSC's), thus responding to an existing gap in scholarship on this matter. Two methodologies were used for this analysis. The first is a discourse analysis and interviews conducted in the 5th annual assembly of the International Code of Conduct Association, in November 2018. The second is a search in newspapers and secondary sources for specific incidences of gender-related human rights abuses. Based on lessons learned from peacekeeping operations, this thesis aims to answer the question how and whether gender mainstreaming and other interventions may be useful tools for improving respect for human rights, and reducing gender based violence in the PMSC industry.

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In Partial Fulfillment

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by

Noa Shapira

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Advisor: Professor Deborah Avant

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ABSTRACT

This thesis conducts an intersectional gendered analysis of the privatization of wars and armed conflicts through the use of private military and security companies (PMSC's), thus responding to an existing gap in scholarship on this matter. Two methodologies were used for this analysis. The first is a discourse analysis and interviews conducted in the 5th annual assembly of the International Code of Conduct Association, in November 2018. The second is a search in newspapers and secondary sources for specific incidences of gender-related human rights abuses. Based on lessons learned from peacekeeping operations, this thesis aims to answer the question how and whether gender mainstreaming and other interventions may be useful tools for improving respect for human rights, and reducing gender based violence in the PMSC industry.

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TABLE OF CONTENTS

Introduction:.....	1
Section 1: Background and Literature Review	7
Section 2: Lessons learned from peacekeeping operations.....	14
Section 3: The Discourse of the Elites	20
3.1 The ICoCA and the debate in the scholarship.....	21
3.2 The fifth annual assembly	23
3.3 Interview with executive representatives of private security firms.....	28
3.4 Interviews with other ICoCA stakeholder.....	45
Section 4: Observed episodes of gendered human rights violations.....	52
Section 5: The ICoCA guidelines:	60
Conclusion	65
Bibliography:	71
Appendices.....	79
Appendix A: Verbal Recruitment Script.....	79
Appendix B: Interview questions for private security firms’ representatives.....	80
Appendix C: Interview questions for NGO representatives:	81
Appendix D: Guidelines for Private Security Providers on Preventing and Addressing Sexual Exploitation and Abuse	82

Introduction:

This thesis aims to explore the gendered intersectional aspects of the private security industry. Conflict privatization represents a trend whereby many countries transfer significant security missions, as well as various functions previously provided by their official military forces—security, intelligence gathering and analysis, force training, and so on—to private companies and contractors. In many cases, these are international corporations motivated by market logic and by profit and loss considerations, who provide services to a variety of clients, from democratic governments and the United Nations to commercial actors. Throughout this paper, the companies that make up this industry will be referred to as *private military and security companies* (PMSCs).

This thesis intends to conduct an intersectional gendered analysis. It uses gender not as a substitute for the word “women,” but rather as a core element of an analysis that is sensitive not only to gender identities, but to age, race, and other positionalities. It focuses on the intersection between gender, class, and race, and the way in which they create social power dynamics such as a post-colonial discourse. Specifically, this thesis analyzes the discourses among elite stakeholders of the private security industry in order to gain insight into how and whether gender mainstreaming and other interventions may be useful tools for improving respect for human rights, and reducing gender based violence.

Multiple sources which explore the gendered nature of the security discourse point toward a general gender blindness. Cohn (1987), for example, points to the extremely

gendered, masculine nature of the discourse among defense intellectuals such as nuclear experts. She refers to them as “white men in ties,” who are completely uninformed about what she refers to as “feminist critique” (689). These experts discuss security issues using sexual imagery, see disarmament as emasculation, refer to missiles as if they were masculine genitals, and so on. Hudson (2005) found that the security studies schools of thought have the tendency to universalize the concepts of human rights and human security in a way that overlooks the gender dimension, or that assumes it is masculine.

My research here is motivated by a gap in the existing literature. The nature of the gendered discourses and affects of armed sub-state actors—peacekeepers, for example—has been studied (Beber et al 2016; Nagel 2019; Karim & Beardsley 2016). Similar research has been conducted on other security-related apparatuses, such as security sector reform (SSR) and Disarmament, Demobilization, and Reintegration (DDR) (Kunz 2014, Jaye 2009). These academic inquiries have informed numerous policies and intervention that aimed to address potential gendered implications (Inter-Agency Working Group on DDR 2012; Valasek 2008). However, similar work has not been conducted in the field of private security.

In order to fill this gap in the private security literature, I borrow from the existing scholarship in the field of peacekeeping operations. Both PMSCs and peacekeeping operations are security apparatuses that share similar concerns regarding an internal masculine discourse and potential implications in terms of gendered human rights. Based on these similar concerns, and the lessons learned from interventions implemented in peacekeeping operations such as gender mainstreaming, I explore the state of gender discourse which both arises from and influences the operation of the PMSCs. I do so by

studying the International Code of Conduct Association, as it is a unique organization that associates multiple stakeholders concerned with private security, with the aim of bettering the conduct of security providers and holding them to the standards of a code of conduct. Though the peacekeeping experience is not a perfect analogy for the private security industry, if one takes account of the differences a commercial setting introduces, the peacekeeping experience can offer important lessons for evaluating the effectiveness of policies and efforts in order to reduce gendered human rights violations.

Based on those lessons learned from peacekeeping operations, acknowledging the difference between peacekeepers and private security operators, I offer suggestions for how gender mainstreaming and other interventions may impact the masculine discourse and reduce gendered patterns of human rights violations.

Methodology

I draw primarily on observations and interviews conducted during the 5th annual assembly of the International Code of Conduct Association (ICoCA), held in Geneva in November 2018, which I attended. The analysis is based on personal notes taken during the sessions of the assembly. During and following the event, I conducted interviews with five members of the association, with the aim of learning more about their understandings, perceptions, and assumptions regarding the issues of gender, human rights, and the challenge in working in their operational environments¹. I interviewed three executives of private security firms, one representative of the ICoCA, and one representative of civil society, also a member of the association. The interviewees were recruited with a verbal

¹ This human subject research was approved by the University of Denver institutional review board, protocol number [1336579-1].

recruitment script (See appendix A). I recorded and transcribed the interviews. The interviews included questions regarding existing policies, understanding of the industry's impact in sensitive environments, gender, human rights and more (see appendices B and C). I also conducted search in newspapers and secondary sources for specific incidences of gender-related human rights abuses that could be connected to the discourses I observed.

The importance of this thesis lies in the relevant comparison between PMSCs and peacekeeping operations, an uncommon analogy in the literature. Second, in this thesis I apply a critical analytic framework rarely used in addressing the harms caused by the PMSCs industry - a gendered intersectional lens. Lastly, the description of the discourse among PMSC elites and the assessment of potential interventions to the challenges identified is done with the hope that it might inform effective future interventions and policies.

The structure of this thesis is as follows: In the first section I discuss the rise of private security and military companies as a significant factor in conflict worldwide. Among others I present the lack of transparency and accountability, the fact that the industry is likely to inflame social tensions if security becomes a product only the rich can afford, and more. I then review the relevant literature, both in the realms of private security and gender theory.

In the second section I discuss the similarities between PMSCs and peacekeeping operations, as two actors likely to generate gendered human rights violations. I then discuss why examining the intervention which were found to be effective in reducing gendered human rights violation in peacekeeping can be a useful analogy for anticipating how it could work in private security. Among others, I discuss interventions such as inclusion of

women in peacekeeping operations as a tool to reduce instances of rape and other abuses of power by male peacekeepers (UN Division for the Advancement of Woman 1995, Karim & Beardsley 2016). I also present the argument that “gendered policies” could in some cases be no more than an institutional cover, a facade that masks the injustice that is still ongoing on the ground (Berry & Lake 2017).

The third section presents a discourse analysis which was conducted during the 5th annual assembly of the ICoCA. First, I present background about the organization, its mission and mechanisms. I then present the debate in the literature regarding the legitimacy and effectiveness of self regulation in the context of private security. Among other findings that I elaborate on in this section, during the annual assembly I identified a limited presence of women, and an important emphasis that was put on the issue of human trafficking as a pattern of hiring in the industry. The sub sections provide additional analyses of interviews conducted with selected representatives during and following the conference. I identified multiple kinds of masculine discourses among the firms representatives, such “new humanitarians”— a term coined by Joachim & Schneikner (2012a) which means a self perception of ethical warriors, who appropriate humanitarian language and action in an attempt to strengthen their public legitimacy, while navigating a complex environment in which “the indigenous” are making it difficult to operate. An additional masculine discourse that was identified was “the ethical hero warrior” – warriors who are particularly righteous and concerned about peace and order around the globe. These discourses reflected multiple racial and class related power structures, which were characterized by specific undertones that included paternalism, imperialism, and more. These discourses

were not mutually exclusive. The other interviews add additional insights regarding the existing policies of the ICoCA in the realm of gender mainstreaming.

The fourth section examines potential implications of the gendered language I observed at the ICoCA annual assembly by briefly recounting episodes of gender-based human rights abuses which have been conducted by PMSCs. The effects of this industry on women and men will be explained using examples from around the world, such as the increased murder rates of Israeli women by their private security contractors spouses. While the human rights violations presented in this section were not conducted by ICoCA members, they provide an example to the potential implications in the form of gendered harms that can result from limited policies concerning gendered issues and the prevalent masculine discourse of the elites.

In the last and final section, I evaluate the potential effectiveness and shortcomings of the recently released ICoCA guidelines on the preventing and addressing sexual exploitation and abuse.

Section 1: Background and Literature Review

Over the past three decades, security has become increasingly privatized. This argument has been extensively argued in the literature, and then confirmed in a 2019 data-based publication (Avant & Kingma Neu 2019, 9). It has been claimed that this growth has significant repercussions for global politics (Avant 2005; Eichler 2015). The private companies offer many services: strategic and tactical consulting; trained and armed personnel for security or combat missions; logistical support; intelligence; and more. These services are procured by governments as well as multinational corporations, NGOs, and humanitarian non-governmental agencies (Jäger & Kümmel 2009, 242). Following the end of the Cold War in the 1990s, the number of PMSCs in the United States surged—and, at the same time, the demand for PMSC services also grew. Between 1994 and 2002, the United States spent \$300 billion on contracts with U.S. military companies (Ibid).

The U.S.-led wars in Iraq and Afghanistan have led to a burgeoning demand for private defense services, and in both conflicts private contractors have outnumbered conventional soldiers. Throughout 2014, in Afghanistan and Pakistan alone, the U.S. military used 54,700 private contractors. By comparison, only 9,800 American troops were present on the ground (Samoocha 2015). The private defense market in the U.S. accrues profits in the hundreds of billions of dollars each year, mainly through contracts with the U.S. State Department (Ibid).

While the American monopoly was for many years unchallenged, it has recently begun to falter, and the industry is now flourishing worldwide. In early 2016, *The Guardian* reported that the U.K. is, in fact, leading the industry; G4S, the world's largest private security company, sits atop a market that generates billions of pounds a year in the U.K. alone (Norton-Taylor 2016). The American monopoly has also been undermined by small companies established around the world, with local generals setting up companies and selling their services privately to the highest bidder (Brannen 2014). Nowadays, private security outnumbers police in most countries; there are an estimated 20 million private security workers operating worldwide, and the industry itself is worth approximately \$180 billion. It is expected to grow even further, reaching \$240 billion by 2020, which will place the industry's total gross above the GDP of a hundred nations, including Portugal, Romania, and Hungary (McCarthy 2017).

The private security industry attracts the attention of journalists and researchers alike as a result of the easy comparison between PMSCs and modern mercenaries. Several companies have earned dubious, mercenary-like reputations through repeated human rights violations (Jäger & Kümmel, 2009). The problem starts with the various consumers' identities—and their public responsibilities. While the services of these companies are frequently paid for by “legitimate” consumers, such as democratic governments or large INGOs, they are also contracted by dictatorships, armed militias, rebel groups and even terror groups (Singer & Baison 2004, 9).

Yet this is not the only challenge in integrating private security and military services into conflicts or disaster zones where there is a human rights crisis—the main operational environment of these non-state armed actors (Jäger & Kümmel 2009, 243). These

companies are also likely to inflame existing social tensions if personal security becomes a product only the rich can afford. In these cases, a majority of the population is excluded from the industry's primary benefit: security, which is a basic human right. Moreover, private military companies in the service of a non-democratic government may cultivate and implement oppressive practices against the opposition or other oppressed groups (Schulz & Yeung 2008, 2).

Accountability and transparency are two additional challenges that the industry faces. There is a unique difficulty in applying law to crimes committed by private military organizations. In most cases, these crimes are carried out overseas and may not be documented due to a lack of "eyes and ears" on the ground (Ibid). Furthermore, many PMSCs operate as virtual companies, limiting their expenditure on fixed assets. They maintain a limited number of permanent employees and recruit ad hoc, making it difficult to track their transactions and operations (Singer 2008, 74).

The transparency issues do not end there, either. Despite its ubiquity, the industry remains shrouded in mystery, and there is an objective difficulty in gathering information about its practices. Many of these companies' customers are found in failed states, where regulation and enforcement are weak to nonexistent. Most governments in Africa and the Middle East do not publish which companies they hire and for what purpose, and the private contractors themselves remain silent. Another factor affecting transparency and obstructing the collection of up-to-date information is that the engagement of these companies with subcontractors is extremely difficult to assess. The contracts themselves are usually sealed—a consequence of the security-concerned nature of the transactions—and so it is rarely possible to know whether a business engagement was ever made outside

the room where the transaction itself was signed (Schulz & Yeung 2008, 6). Lastly, unlike military operations that are usually widely covered by media – there is much less press coverage around private security operations. Furthermore, casualty figures, which are routinely collected and released by the militaries around the world exclude contract personnel. This reduces information about the human costs of war (Avant & Sigelman 2010).

The scholarship on the privatization of conflicts is interdisciplinary; it includes political science, security studies, international studies, critical security studies, criminology, and more. In political science and international studies, the majority of the scholarship focuses on issues such as the state's monopoly over power, and international governance and democracy (Avant 2005, Kinsey 2006, Singer 2008, Avant & Sigelman 2010). Scholarly work has also focused on defining private security contractors and differentiating them from mercenaries (Percy 2007), and explaining the growth of the market (Kinsey 2006, Avant 2013). Much of the scholarship has also handled the complex challenge of regulating the industry under different legal frameworks, and the question of how to hold the industry politically, legally, and financially accountable. A debate exists in the scholarship regarding the relevance of international law in these cases, and the efficiency and legitimacy of self regulation mechanisms (Chesterman & Lehnardt 2007, De Nevers 2009, Richmond-Barak 2014). I will return to his debate later in this paper.

Gender-informed scholarship has also addressed the subject of private security. Laura Sjoberg, one of the central theorists addressing the significance of gender in war and security (2006,2013,2016), has conceptualized the privatization of security as a gendered state strategy which takes advantage of the gendered invisibility of the private sphere

(2013). Other scholars have investigated the connection between the industry and masculinity (Barker 2009, Chisholm 2014a, 2014b, Higate 2015); some have described it as a space that allows re-masculinization (Joachim and Schneiker 2012a). The central book on this issue was published in 2015 and presents eleven articles which shed more light on the gendered elements of the industry and its affects (Eichler 2015). Stachowisch and Eichler (2015), for example, argue that conflict privatization can be best understood as the result of the intersection between the gendered state and a gendered international order (19-37). Baggiarini (2015) focuses on the gendered politics of sacrifice, arguing that states conceived of PMSCs as a solution to the problem of sacrificing soldiers—part of a shift to a “bodyless warfare” (37-55).

Critical security studies have also analyzed the industry from various angles. This field has mostly focused on the way PMSCs discursively shape their public image and legitimacy as security experts operating in a context of neoliberal governmentality which “depoliticizes” this kind of security (Leander & Van Munster 2007), or as “new humanitarians” (Joachim and Schneiker 2012b, Berndtsson 2012).

Following the existing literature, this paper relies on the following basic assumptions:

1) Gender: The term *gender* is often understood to be interchangeable with the term *women*. However, my analysis uses the term *gender*, unlike *sex* (biological differences between males and females), as the socially-produced differences and identities between being feminine and being masculine. In other words – this mode of thinking views gender as socially learned behavior and expectations that distinguish between masculinity and femininity (Runyan & Peterson 2013). It is also agreed that gender differences are to be

understood as a central feature of patriarchy, a social system in which men have come to be dominant in relation to women (Holmes 2007, 2). This paper is also feminist-informed, and thus has both analytical and normative goals: an interest in better understanding gendered power relations and discourses in the private security industry, as well as an interest in improving that industry's practices—specifically, those practices that can, and do, cause untoward and needless harm.

2) The relevance of gender to security: Feminist security scholars have found that gender is a critical component in the analysis and understanding of security. While some argue that security should be analyzed through the perspective of the lived experience of men and women incurring and experiencing gendered insecurities (Tickner 2001, Sjoberg 2016), others focus on the gendered organization of violence and its connection to domestic and global politics (Eichler 2012). This paper also assumes that gender is highly relevant to forming a meaningful understanding of security in general, and the private security industry in particular.

3) Intersectional analysis: This paper acknowledges that “gender intersects with other categories of social difference and that an exclusive focus on gender misses the complex intersecting hierarchies of oppression and subordination that shape women's lives” (Eichler 2015, 9). The analysis will acknowledge intersecting inequalities and identities such as race, class, nationality, and more.

4) Masculinity: Drawing on the work of masculinity scholars, this paper assumes that masculinity is a socially constructed, plural, and fluid concept (Cornwall & Lindisfarn 1994, 12; Higate & Henry 2004, 483). Masculinity encompasses a range of possible positions, identities, and performances (Connell 2000, 21-33). These identities are being

shaped by—and intersect with—other identity-forming categories (Higate & Henry 2004, 481-98), and hierarchical relations exist between different masculinities (Kimmel 1994, Hooper 1998, Connell 2000). Thinking of masculinity as plural and performative allows for better analysis of the discourse and dynamics which industry stakeholders participate in and exhibit. It is also possible to question whether different masculinities portend different effects.

Section 2: Lessons learned from peacekeeping operations

There are several similarities between PMSCs and peacekeeping operations, as two actors likely to generate gendered human rights violations. Three factors informed my comparison between PMSCs and peacekeeping. First, these are two non-state armed actors that operate in complex environments. They share multiple characteristics. For example, both rely on personnel trained by, and hired from, organized militaries; they also both engage in military-style operations, as well as other security/stabilization missions. Second, in the last two decades, PMSCs have been involved in peacekeeping operations, and the use of them for this purpose was legitimized as an accepted tool by the United Nations Security Council in its 6675th meeting (Badell-Sánchez 2018).

Lastly, there is a vast literature on peacekeeping, gender mainstreaming, and gendered violence, perhaps as a result of the alarming prevalence of this last phenomenon in peacekeeping operation. For example, a 2017 study conducted in Liberia estimates that more than half of women 18 to 30 years old in Greater Monrovia have engaged in transactional sex, and that most of them (more than 75%, or about 58,000 women) have done so with UN personnel (Beber et al 2016, 3). A conservative estimate links each additional UNMIL battalion, which consists of about 1000 peacekeepers, to a 3% increase in the probability that a woman will engage in transactional sex (Ibid).²

² However, it should be taken into consideration that the increased awareness of the last few decades has led to an increase in reporting, which does not necessarily indicate higher prevalence (Nagel 2019, 5)

The comparison between these two actors is not perfect, as one should take into consideration that PMSC are commercial actors, and that a commercial setting introduces multiple factors such as the client and its demands, the need to generate earnings, and so on. However, examining the interventions which were found to be effective in reducing gendered human rights violation in peacekeeping can be a useful analogy as a result of the similarities these two actors do share. This could allow us to speculate, or perhaps anticipate, how similar interventions could impact private security operations.

Many feminist activists have argued that the sexual exploitation and unchecked aggression against civilians in peacekeeping operations stems from military masculinity, which is hegemonic within western armed forces. This masculinity is associated with strength, toughness and aggressive heterosexuality (Duncanson 2009). Many interventions were suggested and attempted in order to address this discourse, which is associated with gendered forms of human rights violations, as presented above.

Existing literature on peacekeeping operations has found that gender mainstreaming and increased feminine presence in field operations has significant and positive effects on a mission's effectiveness and ultimate results. Research shows that the presence of women helps limit the number of rapes and other forms of abuse of power conducted by male peacekeepers against local women (UN Division for the Advancement of Woman 1995, 12). Also of note is that, in performing their tasks, women are perceived to be compassionate; unwilling to opt for force over reconciliation; willing to listen and learn; and contribute to an environment of stability and morality which fosters the peace process (Ibid, 6). Furthermore, the presence of women seems to foster confidence and trust among the local population, a critical element in any peacekeeping mission (Ibid).

Similar recommendation with regards to gender mainstreaming were written by Schulz and Yeung (2008), who have written a tool kit specifically for private security companies in which they advocate for the implementation of this policy. Among others, they argue that recruiting women into PMSCs is an important strategy for improving operational effectiveness for several reasons. First, research shows that local men and women tend to see female staff as more approachable and less threatening, even in traditional societies. Thus, the presence of female staff can strengthen the legitimacy of a company and its operations.

In addition, female operators are needed for guarding buildings, road-blocks, airports, etc. in order to perform body searches on women. They also argue that, when involved in SSR-related operations, female security contractors can serve as positive role models for local women who are considering joining organizations such as the police. Furthermore, female guards may be able to take a different approach to the detection of security risks, thereby potentially enhancing identification of the specific types of danger women are exposed to in host societies (3-4).

In addition to gender mainstreaming, or increasing the proportion of female peacekeepers, a more recent study regarding peacekeeping operations has put an emphasis on the recruitment process, and found the level of gender equality in the sending country, is one of the most important factors associated with reduced levels of sexual exploitation and abuse (SEA) during the mission (Karim & Beardsley 2016, 101). However, it should be noted that the view regarding the importance of gender mainstreaming through the inclusion of women in security apparatuses has also been contested. While over the past

two decades interest in issues of women's peace and security has grown, and so has the research on these issues – perhaps inevitably, the thesis of inclusion has faced criticism.

Many scholars claim that it is based on women's stereotypical depiction as peaceful, and that it is important not only to note the identities of the included women, but to ensure these inclusion based policies are not merely an institutional band aid to the reality on the ground. In addition, some scholars argue that the inclusion of women in security apparatuses sometimes has no influence rather than re-affirming the existing structures of oppression.

One such research study was held in Israel, a country in which conscription is mandatory for both men and women. Interviews with female soldiers serving in the Israeli Defense Force found that female soldiers serving in positions considered masculine—thus representing the policy of inclusion of women in these roles in the military—in fact identify themselves with the ethos of the hegemonic masculinity as represented by the fighter. They imitate the behavior of the male fighters and separate themselves from what they perceive as traditional femininity by minimizing the significance and impact of SEA and sexual harassments. While this behavior, according to the study, gives the female soldiers authority and a sense of security, it also confirms the validity and strength of the hegemonic masculinity that surrounds them and in which they participate, consciously or otherwise. Thus their inclusion in the military does not change the basic patriarchal power structures of the military, nor of the larger society (Sasson-Levy 2000, 165-185).

This next example does not come from the realm of peacekeeping operations studies, but rather from a study that looked into the nature of other forms of intervention aimed at addressing gender violence in conflicts: programs to support and empower

women, and policies that prioritize legal accountability for sexual crimes in conflict and post conflict settings. The study found that “while programs to support women’s empowerment theoretically create possibilities for new agency and opportunity, in practice, vulnerable women frequently fail to reap the benefits of rights won in court” (Berry & Lake 2017, 345). In other words, not all women benefit equally from such programs, and in their implementation there should be a clear oversight of the intersecting identities of the intended women beneficiaries. Furthermore, the same study found that these policies are sometimes being used to disguise the true situation on the ground: “. . . acquiescing to narrow forms of rights claiming can serve as a political lion’s skin, to use Marx’s phrasing, serving to conceal and entrench deep-seated and persistent social disparities and fissures beneath the guise of socio-legal progress” (McCann 2006, quoted in Berry & Lake 2017, 345).

The Karim & Beardsley (2016) study also suggests that while the inclusion of women in peacekeeping operations may help reduce sexual violence, this intervention falls short of addressing underlying problems of inequitable power relations. The study argues against placing the burden of reducing SEA on the shoulders of a minority group—women—as this is likely to have limited efficiency (113). The authors concluded that for the purpose of reducing SEA, there is a need for a more comprehensive approach that addresses the root causes of the problem. Peacekeeping operations must require all members of the mission to develop a fundamental regard for gendered equality. Improvement of the disciplinary culture is necessary, along with targeted recruitment that should be evaluated on the basis of the potential recruits’ values of gender equality. The paper further points to a need for rigorous training and gender mainstreaming, such as that

conducted by Sweden and Norway (Ibid). A 2017 study confirmed that a significant potential avenue for addressing SEA is stricter enforcement of discipline in general, and the cultivation of value-based organizational culture in peacekeeping operations in particular (Moncrief 2017).

In sum, multiple lessons can be drawn from the interventions implemented in peacekeeping operations in order to address the violent masculine discourse and reduce the prevalence of SEA. First, while gender mainstreaming is indeed necessary for better operational success in general, and for the reduction in SEA in particular, it seems that there is a need for a more nuanced and comprehensive approach to fully address the core drivers of this type of violence. The inclusion of more women at the field operations level should be followed by additional policies that enhance discipline and educate staff regarding issues of gender.

Furthermore, attention should be given to the identities of the women who are benefiting from—or paying the price for—the existence of such policies. Careful consideration should also be given to the recruitment processes, noticing the level of gender equality of in the sending country on the personnel. Lastly, a rigorous analysis should be conducted to determine whether or not the existence of the policies and guidelines is anything more than a cover which protects elites from the accusation of not having a policy, while not truly addressing the situation on the ground.

Section 3: The Discourse of the Elites

The International Code of Conduct for Private Security Service Providers' Association (ICoCA) is a multi-stakeholder initiative established as a Swiss non-profit association. The 5th annual assembly of the ICoCA was held at the end of November 2018 in Geneva, Switzerland. The first part of this section will present a brief overview of the organization itself, as well as an overview of the scholarly discourse regarding its effectiveness and legitimacy. The second part will present an analysis of the 5th annual assembly itself, which presented discourses and identities that could allow for a better understanding of the stakeholders and their perceptions of the challenges they face. The third part will present interviews held with multiple stakeholders during and immediately after the assembly.

These interviews shine a light on the self-perception of the industry's elites and illuminate their views of human rights issues, gender mainstreaming, and challenges their organizations face among the surrounding population of host nations. From the analysis and the interviews, certain inferences can and will be made about the possible implications of these discourses in the field in terms of human rights violations. In other words, this analysis suggests that the image that reflects from the interviews, the self perception of the "ethical hero warriors" held by elite men from the global North, within an organization that does not yet have rigorous gender mainstreaming policies – would have an impact on the gendered patterns of human rights violations that are seen on the ground.

3.1 The ICoCA and the debate in the scholarship

The ICoCA was established in 2013. The purpose of the organization is to “promote, govern and oversee the implementation of the International Code of Conduct and to promote the responsible provision of security services and respect for human rights and national and international law in accordance with the Code” (ICoCA website 2019). Signatory companies are required to endorse the Montreux document,³ the UN principles,⁴ and to affirm that they will “respect the human rights of, and fulfill humanitarian responsibilities towards, all those affected by their business activities” (Vrdoljak 2015, 195).

The ICoCA certifies its members by requiring external certification, which must be issued by an independent and accredited certification body, and by requiring documentation which proves that each company meets the requirements of the Code. In addition, the organization also monitors and oversees member companies’ performance and compliance under the Code. Civil society organizations members of the organisation, also assist in the monitoring process. In addition, the association has a complaints mechanism through which it accepts and processes complaints on violations of the code (ICoCA website 2019). The ICoCA is financed by its members; the private security companies pay a joining fee, as well as an annual fee. Government contributions are made on a voluntary basis; civil society members also pay a membership fee, as do observers of

³ The Montreux document intergovernmental document, that resulted from an international process launched by the Government of Switzerland and the International Committee of the Red Cross, intended to promote respect for international humanitarian law and human rights law whenever PMSCs operate in armed conflicts (ICRC 2011).

⁴ The U.N UN Guiding Principles on Business and Human Rights.

the association. The ICoCA produces and distributes policies on different issues among member companies, and provides the guidelines on how to incorporate them into the operations.

Multiple scholars as well as NGOs have criticized this multi-stakeholder initiative for its voluntary nature and limited modes of enforcement, none of which are legally binding. “These significant limitations are exemplified by ‘so-called rogue business actors who actively and deliberately avoid any form of regulation’” (MacLeod 2011, as cited in Vrdoljak 2015, 196). Some scholars have attacked the morality of the concept of self-regulation; others claim that, under the current model, “the industry does not exhibit the capacity to adopt and implement effective self-regulation on its own” (De Nevers 2009, 479-516).

Richmond-Barak (2014), for example, acknowledges that “self-regulation presents distinct advantages over formal governance in certain circumstances—particularly in influencing the behavior of non-state actors” (775). Yet she still recognizes two significant challenges. First, she argues, the voluntary frameworks—a company’s code of conduct, or multi-stakeholder initiatives such as the ICoCA—are limited to the concepts of corporate accountability. In addition, “none of the existing schemes contemplate the imposition of sanctions beyond the mere exclusion or suspension of non-compliant actors” (Ibid, 826). Thus, a violation of these codes of conduct, even one that entails a human rights violation, could result in minimal disciplinary steps. NGO’s such as “War On Want” have also joined the criticism, claiming that “Voluntary codes...are not the answer to the culture of impunity that PMSCs enjoy”. According to this NGO, codes such as the one which functions as a cornerstone of the ICoCA, “are used by companies to legitimize existing

industry practice and to block the introduction of legally binding regulation” (Raphael Kingston 2016).

On the other hand, some scholars argue that self-regulation, or regulation that happens on multiple levels and not just the state level, is in fact impactful. Mattli and Woods for example argue that in many cases standards which were adopted via soft law can be endorsed by governments, “thereby hardening it and giving it real bite” (Mattli & Woods 2009,3). This is also argued by one of the leading scholars in the field, Deborah Avant, who states that “recently scholars have noted that situations of fragmented authority or soft law sometimes lead to effective regulation” (Avant 2009, 10).

Nonetheless, Avant explains that effective regulation can only occur when “the efforts of various regulatory actors reinforce one another and the requisite competencies to perform impactful regulation are found within the array of regulators” (Ibid, 5). It should be noted that there is an implicit assumption in the scholarship that regulation agreed upon and enforced by nation-states is more effective and impactful than other kinds of regulation. The inadequacies of the current framework, mentioned above, are thus often blamed on states being unable or unwilling to play their appropriate role in regulation.

3.2 The fifth annual assembly

As mentioned above, the 5th annual assembly of the International Code of Conduct Association was held in November 2018 in Geneva, Switzerland. The first session was conducted by the board members of the association, 40% of whom are women.⁵ The

⁵ This analysis attempted to avoid essentialism by assuming that an increased feminine presence would lead to a more lenient policy, better governance, and policy that is geared towards human rights. However representation is still a part of gender mainstreaming and thus is acknowledged in this analysis.

presentation focused on administrative issues, the annual budget, sources of funding, future objectives, and so on. Notably, the attendees present in the large conference hall were predominantly white men.

Analyzing the discourse of the first session, it seems that, in its fifth year, the ICoCA is still attempting to create and strengthen its international recognition, both among UN organizations and governments and the clients of the firms. It was specifically mentioned that the previous year was characterized by budget concerns and an attempt to overcome a deficit. It was also mentioned that the organization prioritizes increasing awareness of its existence among potential clients; ideally, this will lead to them hiring certified companies who work through and with the association. The board called upon the industry representatives in attendance to collaborate on this specific objective, as more often than not the association administrators themselves lack a direct connection to the member companies' clients—a consequence of the wide range of potential clients, the confidential nature of most security contracts, and similar limitations. Other stakeholders, such as the World Bank, were mentioned as actors who could potentially strengthen the recognition of the association.

Data presented during the session revealed that, out of approximately 90 members, only 16 are certified—not even 25% of the membership. In terms of accountability, the board stated that the association aims to expand the current monitoring mechanisms, increase its presence in the field, introduce company self-assessment procedures (with regards to the implementation of the code of conduct), and enhance the existing complaints

mechanism. In the previous year, 28 complaints were received by the ICoCA, yet none of them were against member companies⁶.

The second session was divided into separate pillar discussions: civil society, industry, and more. Only the industry pillar falls under the scope of this paper and will be presented and analyzed here. The discussion was presided over by five men from the association and the general director. Most of the attendees were representatives of the industry, and most of these representatives were executive-level staff from various firms. They were predominantly male, with only one female—and this one female, quite notably, was not a CEO or senior officer like her male counterparts, but rather held the title “compliance manager.” While other women were present in the room during the hour-long session, only men spoke.

The discussion revolved around the nature of the security industry, and different definitions were put forward and debated. The industry representatives discussed, for example, whether their definition should be “companies providing solutions in complex environments,” as perhaps the definition of “complex” might deter potential clients who wouldn’t want to be acknowledged as “complex.” “For the indigenous people it is not complex. We are there to enable the client. We are ‘enablers’ of business, mitigating the risk,” said one of the participants.

One human rights issue was discussed in this forum: the labor rights of the personnel on the ground, such as guards who work in the field and are usually locally hired. “There is an abuse of local national staff. In Iraq they are sleeping 4 hours a day. The client

⁶ “ICoCA governance”, remarks by Jamie Williamson, the 5th ICoCA annual assembly, Geneva Switzerland, November 29, 2018.

wants the certification, but they also want us to work these hours. If we refuse—we lose the business,” explained a CEO of a PMSC that works in Iraq. “We are struggling as most companies just agree to that. We had to walk away from a very large contract. We have to make sure no one breaks the lines. But who will report?” A heated debate started as another industry representative accused fellow members of ignoring—or, at least, selectively adhering to—the principles of the Code of Conduct. He said, “Some of the members are only a part of this (the ICoCA) in order to tick the box, and we all know who they are. We don’t want them, we have a credibility to maintain. I need to speak from a credible standpoint.” While the chairman acknowledged the problem of abusive internal hiring practices and noted that “we need to make sure people are not working to death,” no practical solutions were proposed or brainstormed. Furthermore, the chairman did not acknowledge the clear lack of trust in the association and its monitoring mechanisms that was expressed by the executives (“who would report?”), nor the accusations of fellow members concerning disregard for the Code of Conduct⁷.

The potentially exploitative nature of employment in the industry was also discussed in the main panel of the conference, with a focus on human trafficking. Particular risk factors for human trafficking were presented with regards to the private security industry, including a high number of migrant workers who are particularly vulnerable to debt bondage (a form of human trafficking), temporary employment, supply chains, and the recruitment processes through recruitment agencies (sub-contracting). According to

⁷ “Pillar Meeting”, the 5th ICoCA annual assembly, Geneva Switzerland, November 29, 2018.

Shawn MacDonald, the CEO of a nonprofit called Vertie,⁸ the manpower in this global industry is set on debt bondage. “Unless you are actively making sure that it is not happening—then it’s happening” he argued. MacDonald added that these forms of human rights violations have a unique gender component. Male victims of this form of trafficking face significant “push” factors to leave home; many of these men face cultural expectations that demand they provide for their families at all costs, thus making them unlikely to complain when taken advantage of. He added that male-dominated industries should be analyzed in light of these particular vulnerabilities.

Interestingly, human trafficking within the industry with this gendered lens on men as victims was the only form of human rights violation that was discussed in the assembly⁹. This attention is commendable, and as I present in the next section, human trafficking is indeed one of the gendered human rights violations that could be perpetrated by the PMSC industry. The emphasis put on this topic could in the future inform relevant policies and guidelines. However, I found it interesting that the discussion regarding human rights had an inward looking angle. In other words – the industry chose to focus on its annual conference on human rights violations that could impact its own people, rather than the host community.

In the Q&A session, the industry representative shifted some of the blame for regulatory woes to local authorities in the fields in which PMSCs operate, claiming that

⁸ Vertie is an NGO which specializes in labor rights, with the aim “to eliminate the most serious labor and human rights abuses in global supply chains” (Vertie website 2019).

⁹ “Plenary panel – addressing human trafficking: the role of private security companies”, Tristan Forester, Shawn MacDonald, Linda Ristagno, Transport Association, Deborah Avant. The 5th ICoCA annual assembly, Geneva Switzerland, November 29, 2018.

“[they] can't even control their own people.” This belittling comment, combined with colonial contempt toward the host nations, repeated itself in the individual interviews presented below. It was also noted that non-certified members are at greater risk of committing these violations, and that potential solutions can only occur if robust due diligence processes are put in place in conjunction with recruitment agencies.

3.3 Interview with executive representatives of private security firms

Hegemonic masculinity—a term popularized by R. W. Connell (2000), among others—is considered the most honored way of being a man. Requiring all other men to position themselves in relation to it, the concept ideologically legitimates the global subordination of women to men. Hegemonic masculinity is distinguished from other masculinities, especially subordinated masculinities. In a later book, Connell (2005) states that transnational arenas are sites where hegemonic and subordinate masculinities are constructed (849). War, which in this case could be literal or the complex operational environment in which PMSCs operate, is also a place where gendering occurs, including the construction of hegemonic masculinity (Joachim and Schneiker 2012a, 499).

This section analyzes the discourse among the key stakeholders of the ICoCA. It presents three interviews with elite representatives of the private security industry, one with a representative the organization itself, and one with a representative of a civil society organization that is a part of the ICoCA membership. I chose to keep the names of the interviewees anonymous as I believe they represent a discourse, and their particular companies and names are not essential to the analysis. The analysis emphasizes both the nature of the discourse itself and the way in which these actors perceive themselves and construct their identities. This section also presents a more concrete picture regarding the

existing guidelines and policies the ICoCA has pertaining to human rights and gender, and the way these rules are perceived and implemented by the member companies.

During the individual interviews, the interviewees repeatedly used a defensive tone. This reflects the often mentioned concern the industry has with its public appearance. The automatic recognition with mercenaries, with companies referred to by the media as “dogs of war”, and with the notorious Blackwater incident in Iraq is perceived as alarming. **D.**, the founder and owner of a European private security company, spoke about the public perception of the industry:

[You] see, a lot of people are thinking we are all dealing with weapons and arms but, the majority of our operation, and [I am] speaking for my companion, we're not armed. We are operating, training and advising, so we do not have any weapons. We are training people while wearing weapons because they are local military, but we do not wear any weapons. Blackwater time is over. Whatever was Blackwater in 2003 or 4 [is] linked to this type of association to be created.

And, with regards to peacekeeping operation, he mentioned:

. . . if you look or just scan the press you will discover that some forces of foreign countries have been involved in a lot of trouble, human trafficking, child abuse, and in fact if you look at the private industry, where is the scandal? My point is to say that there is perhaps less scandal in the private sector than there are in the UN peacekeeping operation.

This pattern of defensiveness was identified by Joachim and Schneiker (2012a), who have also analyzed the way in which PMSCs construct their identity and legitimacy through an analysis of 29 homepages of MPSCs in the UK and the US: “PMSCs seek to rid themselves

of the mercenary image by replacing the negative, subordinate forms of masculinity associate with that image with more accepted forms” (501). One such masculinity in the image of the skilled professional, a business man or an owner.

During the interview, **D.** emphasized multiple times that he is the founder and the owner of his own business, a fact that both makes him proud and gives him a sense of personal responsibility for, and commitment to, his employees. He mentioned that due to his business size he does not face problems or challenges that other businesses might face. Reputation is increasingly what distinguishes a company in a market of growth and diversification (Bearpark & Schulz 2007). And indeed, it is clear that reputation is particularly important to this business owner. He mentioned several times his deep commitment to the certification process and how vital it was to adhere both in letter and in spirit to the code of conduct. In doing so, **D.** actively attempted to bolster his public image by endowing himself with characteristics and beliefs commonly ascribed to highly skilled professionals.

D. seems to perceive himself as an “ethical hero warrior,” a term coined by Joachim and Schneiker (2012a), who argue that PMSCs “claim to differ from predecessors and black sheep in the industry on the grounds that they are not only committed to ethical and moral conduct, but also truly concerned about peace as well as order around the globe” (496). The language used by **D.** fits with what is referred to by Hooper (2001) as the “bourgeois-rationalist model of masculinity,” which “idealizes competitive individualism, reason, and self control, values of ‘superior intellect and personal integrality...over physical strength” (98). **D.** positions himself as such: he emphasized being the owner and the manager of the business; his sense of personal, individual responsibility; and the nature

of the business, which can be seen as resulting from managerial decisions that allow him and his employees to steer away from challenges that similar enterprises are facing.

Commitment to human rights

When asked to what extent norms of human rights or best practices of human rights are adopted by their companies, the interview subjects' answers were particularly interesting. While some interviewees showed a deep commitment to these concepts, others leveraged their own morality by maligning various involved parties, such as competing security providers and the peoples of host nations. These answers held a notably imperial tone.

D. showed high commitment to human rights in terms of fair pay for employees, which would contribute to stabilization and allow them to support their families. In his answers, the discourse of private contractors as the “new humanitarians”—in which PMSCs appropriate a humanitarian discourse in order to enhance their legitimacy (Joachim & Schneiker 2012b)—was very prevalent. “I put my small stone at the global edifice,” he said. The nature and ramifications of this appropriation will be further discussed below.

According to Joachim and Schneiker (2012a), while the companies make themselves look like accountable and respectable endeavors—e.g., banks or insurance companies—upgrading in the latter is accomplished by downgrading other security providers... (501). This discursive process was clear in all of the interviews conducted with industry actors. Referring to implementing human rights norms, **D.** said, “I am a small company, for me there are no obstacles.” After stating his various deep commitments and personal responsibilities, he mentioned that this kind of self reflection and sense of personal responsibility may not be found in the bigger companies: “Big companies,” he told me,

“look for money first.” **D.** also mentioned that the bigger companies pay lower salaries, as they have more financial pressures from their shareholders. “They are more focused on rentability,” he explained, implying that he is more professional and moral in terms of implementation of human rights norms than his competitors.

Other executives also referred to other actors in a similar way. According to **F.**, the chairman of a security firm which operates in the Middle East, other security actors operate immorally. To explain, he described an encounter with the staff of another PMSC—which he described as “one of the major security companies, the largest”—during an audit in Jordan’s Zaatari refugee camp. The staff of the other company was described as untrained and helpless:

I grabbed a couple of the locals doing the security, all uniformed with everything ready. I asked them, “So what do you do?” They said, “I don't know.” I said, “What is your role here?” He said, “My role is to provide security.” I said, “So what happens?” ’cause I don’t know if you’ve ever been to Zaatari but if it kicks off it gets pretty bad, so “If something kicks off what are you going to do?” “Uh, I don't know.” “So who would you communicate, what's your line of communication?” “I don't have communication.” “So who’s your boss?” And he mentioned some guy’s name and I said “How do you communicate with him? Do you have a radio?” He said, “No I have my mobile phone I can call.” I said “Uh, but they don't provide you with anything?” He said “No no no.” So I said “You got no standard operating procedures, no nothing?” He says “No absolutely not.” And this is one of the top companies.

It can be clearly seen how F. presents his competitors as completely incapable, and by denigrating them he elevates himself as a professional authority:

I don't even wanna get into some of the nightmare stories that some of these companies are involved in, and again some of the top tier international security companies, involved in arms dealing, drugs, prostitution—all sorts of stuff—and these are the top tier, I'm not talking about mid-low tier, these are the top tier companies, because the management is so far away from what's going on on the ground, the operational side there are people who never really, some of them probably never been involved in the security industry. Some of them are just VC capital money sitting out US or somewhere else and hiring people to go, and these are project managers, people who let their own vice presidents run the business and make money on the side, which they all do, and run a racket with the local public to try and get as much money of it as possible from it before they go back home. And they'll get away with it, and they're the ones getting the most business because we don't play by the same rules.

Joachim and Schneiker (2012a) have exposed imperial undertones in the process through which industry actors claim the bourgeois-rationalist model of masculinity while downgrading other masculinities. When asked to address the challenges the firms face when interacting with local populations in the field, some of the interviewees' answers reflected this notion.

Two of the executives referred to community members living in the operational environment in belittling terms, which could be seen as yet another example of how—in order to construct a clean, moral, and masculine business identity—other masculinities are

being subordinated. The local government was described as being unable to “take care of [its] own people.” **F.**, who is chair of a firm, explained:

[The] local government is more corrupt than anywhere in the world, in Iraq . . . Afghanistan is the same, Libya’s the same, Somalia the same, you name it—these countries where most of our, the close protection, armed escort security type businesses [are operating] in these countries. If you want to break the rules, you’ll be fine; no one is going to give you a tough time.

Here **F.** makes mention of a culture of impunity common to PMSCs—a culture which, considering the complex nature of their operational environments, enables these companies to get away with virtually anything.

Another executive referred to the locals as “indigenous,” saying that “you need to understand the indigenous people and how they think.” Asked about obstacles his employees face when interacting with local populations, he said this:

[The] obstacles are the people. A lot of them, the majority, don’t think past today, they don’t look at the future so it’s hard to have an argument, or a debate, or a discussion and say “Yeah, but if you do that now and six months down the line you can have this,” no, [it’s] “What do I have today, I wanted it today.” . . . They think “today” and not long term so, you’ve got to be able to manipulate and show the situation, so they understand . . . [say] “Yes you can, but you’ve got to help us get there, you help us, we help you and we all will be happy.”

This quote clearly belittles the locals and exhibits imperial tones. A white man in a tie, belonging to the global elite of the private security industry, sits in Geneva and explains that the locals have to be manipulated into doing things in the field because they do not

have the ability or the resources to do these things on their own initiative. Another, related undertone I identified in the answers was that of infantilization of the locals, which was often accompanied by claims of quasi-parental responsibility toward the local staff and population. As **F.** said:

And my problem with the people of Iraq today is, you got to identify that you got that power. So I always tell them “Today you are sheep and the shepherd you got in front of you are actually wolves, and you deciding to follow the wolves and that journey, we all know how it ends. Until you guys decide that you wanna stop being sheep and start becoming lions, you’ll always be the prey of the wolves that you sheep seem to follow happily. And the choice is yours; you far outnumber them, you got to change your attitude.” And they agree but it’s like a process, it takes time, they need to understand.

Another industry official put a great emphasis on “understanding the indigenous.” Beyond the imperial undertone, this position reaffirms Connell’s observation that “traits typically associated with femininity are now being marketed as macho power machines” (Connell quoted in Joachim and Schneiker 2012a, 502). According to Joachim and Schneiker, many companies, even those offering offensive services, regard elements such as “flexibility and cultural sensitivity”—traits, like tenderness and empathy, traditionally associated with femininity—as essential to their survival and success. “By appropriating feminine attributes and turning them into valuable masculine traits, PMSCs set themselves apart from other security providers” (Ibid).

In their analysis, Joachim and Schneiker (2012) argue that this appropriation of feminine attributes plays out in tension with the “performance” of more traditional

masculinity. Where references to feminine attributes appeared in the homepages of PMSCs, they were frequently counter balanced by very masculine pictures of heavily armed men in combat gear. Examples are plentiful of this juxtaposed language and imagery: ASI Group (2009), for example, promises to “be there for you—around the world, around the clock. That is the ASI Group difference.” Cochise Consultancy (2009) provides “world wide security for all your needs. We are here to take care of you every minute.” PAE (2011) has “the capacity of care” (Ibid, 503). Yet this tension did not appear in the interviews themselves. The undertone of paternalism, or the attempt to portray themselves as “selfless caregivers,” resonated without an attempt to compensate with a more “masculine” gesture. It is possible that the aforementioned feminine attributes, which clearly strengthen the perceived professionalism of the security actors, are so deeply integrated into these actors' identities that they do not experience any tension.

The imperial and infantilizing undertones are echoed in several interviews. In one of interview, this was exemplified through a “humanitarian” lens. The discourse of the “new humanitarians” (Joachim and Schneiker 2012b), mentioned above with regards to **D.**, contains a power structure; the contented global North which can provide to the hungry global South. This was reflected clearly in the interviews:

D.: We decided [that] every time possible we [will] provide local assistance, medical assistance, we dig wells, we make a kind of vaccination process, we can ask some NGO to come in beside us and decide what can be done . . . where we are working, that's not much; It could be a drop of water in the Pacific, but it's better than nothing.

F.: We [say]: “we wanna build you a school, or build you a football pitch”, something that they can benefit from, then they are on your side and that’s a positive thing, you’re not giving [to] one individual, you’re giving a community something that they need. If the community is on your side why would you need the individual?

F. further explained that “this technique”, of engaging in development style actions is used as a tool to divert pressures to “pay under the table” that they often encounter from the local authorities, for example. While it could make sense for PMSCs to take part in humanitarian operations such as demining, for example (and indeed multiple firm are active in this field), it seems that operations in fields like education or WASH (water, health and sanitation—digging wells, for example) require further justification and expertise. Furthermore, the key to a successful humanitarian action of any kind lies in coordination with other stakeholders. The coordination is done through U.N. mechanisms of which PMSC are not a part. Lastly, one of the core principles of humanitarianism is neutrality. A PMSC is a commercial actor that is hired by one side or another and thus is by definition not neutral. PMSCs involve themselves in non-military operations such as these in order to enhance their legitimacy in the global arena – a problematic motivation, to say the least, to be doing humanitarian work from.

By infantilizing the indigenous and portraying competitors as immoral and incapable, these actors discursively portray themselves as omnipotent when operating in the field and working with—and against—local populations. **F.** describes himself as righteous:

I've been told that from high-level government officials in Iraq when I tried to raise the issue with them they said: "Look, we commend what you're doing, but we gotta be honest with you—you will fail if you are not prepared to make payments under the table, and facilitate these people whether they be militia, politicians, or corrupt state/semi-state-owned entities."

Yet statements such as this seem not only to mask the complex social realities of private security services, but to conceal the hegemonic-type masculinities they perform, which require the active subordination of other masculinities. The discursive subordination process has been teased out throughout the foregoing analysis. Yet also deserving of our scrutiny is how the privatization of security is accompanied by the exploitation and marginalization of men within the industry. While this industry is often portrayed as being comprised of well-trained experts, these men possess labor and social rights inferior to those of soldiers in traditional Western militaries. They do not enjoy job security and are often hired as contractors for single missions (Joachim and Schneikner 2012a, 503).

Furthermore, host country nationals that the industry frequently hires as cheap labor—armed guards, logistical support staff, and so on—are sometimes victims of human trafficking, as mentioned in the ICoCA annual conference. Practices of this kind exemplify the way in which masculinities shaped by the above-discussed discourse intersect with race, culture, and class. The vast majority of the men who attended the annual assembly were not only white—a significant privilege in and of itself—but belonged to the executive class of the business world in general and the PMSC industry specifically, further rooting them in a class of elites. They infantilized, subordinated, and portrayed as incompetent both

the masculinities of their competitors and of the “third world” men among which they work in the field.

The hiring and exploitation of these men allows the elites who represent hegemonic masculinity to profit from and reproduce social inequalities not just within their own companies, but also—through feminization and subordination—within other security providers (Ibid). This process is often carried out through committing human rights offenses, as was evident in the above excerpt from **F.**’s interview. Further examples of this kind of behavior will be presented in the paper’s final section.

It should be noted that the executives seemed somewhat aware of the industry’s problems with hiring norms. When asked about human rights issues, all of the representatives replied not with regards to the environment in which they operate, but rather looked inwards, addressing the manpower they hire. Consider **F.**’s thoughts on human rights norms and policies:

It’s central but it’s also difficult because we operate in a environment where most other companies do not abide or follow nor does the government. So if the government is one of the biggest clients and they are pushing [the] prices down, and getting under the table payments, and our issue is to be compliant with international norms and rules in terms of human rights and in terms of commercial economic ethics it becomes very difficult. You get to the point where you will start suffering as a result. We pay the price of being told “You’re being stupid if you don’t do what we ask you to do, then you’re not winning our business,” whereas your counterparts are all doing it.

F. seems to feel between a rock and a hard place. While he acknowledges that human rights are indeed important, he explains that adhering to the rules makes him lose business. When asked to clarify the hiring norms of the industry and how they affect his business, he explained:

It's not just about hiring, it's how you employ your people, how you adhere, so there's certain standards about how you treat your employees. There are certain hours that need to be worked, there's salaries, social security issues and payroll increase that we all, we adhere to, to the law and also beyond. Because they're [the employees] the most important asset. If we don't look after them, first of all, you cannot work more than a few hours . . . doing the kind of work we do, if you got them working 20 hours a day. You do the math, how many [hours] if you get to be home, sleeping, recovering, eating . . . and that's some of the things our clients, although they claim that this is important to them and that they want you to abide by certain regulations but then they stipulate things in the contract that requires you to break these laws. And if you don't do what they are asking you to do then you will fail and be moved off the contract.

In sum, this type of discourse, particularly the omnipotent self perception, portrays the “ethical hero warrior” image—a version of masculinity which values “personal bonds between men, military heroism, and taking risks” (Hooper 2001, 65). The establishment of this identity and of the superiority it entails is accomplished through the devaluation and pathologization of the masculinity of fellow security actors, government representatives, and other men whose lives and work are adjacent to the field. This process is evident throughout the interviews I conducted. Lastly, the ethical component of this kind of

masculinity, in the context of private security contractors, is achieved through (1) the language of care, and (2) the discursive creation of a link between PMSCs and humanitarian NGOs, presenting the former as legitimate actors who are attempting to better the world (Joachim and Schneikner 2012a, 504). In the interviews, it is also clear that the ethical component is ideally achieved through a refusal to engage in business if the client requires payments under the table or services which would hurt the human rights of the contractors.

Gender mainstreaming:

More than one representative of the industry mentioned how difficult it is for them to implement internal gender mainstreaming. F.'s thoughts on this matter are particularly to the point:

That [gender mainstreaming] doesn't work for me and not because I don't want to . . . If I'm working in an environment like Iraq, where the local population, the local norms do not consider that important, then all I'm doing is creating a problem rather than solving it. For example, we hired a finance person, an individual who was, I wouldn't call him gender neutral, he probably saw himself more as a woman than as a man. When I questioned why this person was sent down to me they said "Well, we want to be inclusive." I said "Not in Iraq you don't want to be inclusive," because I worry about his safety now, or her, or whatever I don't even know. And he had issues. And I had this huge argument with HR about it. I said "Look, I don't make the rules. I can't agree with what you are saying on principle, but if I have to look after the interests of this person you just sent to me, make sure he doesn't get abused, then I can't do my job."

You are talking about the security industry [which] is a male-dominated industry, this has always been the case. I find that sometimes when women have entered into it, they are just as capable, but I sometimes find they try a little bit harder because they feel that they need to put a little bit more effort in to try and fit in.

Referring to gender mainstreaming, he went on:

I'm all for it, I mean it has to be inclusive and there's absolutely a need for it even in the Arab world. So I'm not saying no, but it is, in places where it's a high risk—clearly there is going to be a problem. I know everyone has an opinion on it but it is going to be a problem.

F. Seemed to have struggled with the concepts of gender mainstreaming himself, when a potentially non hetro-normative individual joins the firm. For **F.**, even though he recognizes the theoretical validity behind the need for gender mainstreaming, it is almost an impossible mission. For others, such as **T.**, a feminine perspective is needed—yet only in some positions:

I mean we have females that work for the company, so we have financing and HR for instance. The difficulty is when you are a private security company you're working in the commercial sector, if you don't have female CPOs so you won't have girls working within the team or females working within the team and there's a reason for that and that's because it's culturally difficult for the Iraqi people to have a woman basically telling them what to do. It's like a younger person telling an older person what to do, it's culturally sensitive. However, females within the business especially [in] consultancy and risk management, you know, they fit in

really well because, you know, their approach and methodology and thinking is sometimes a lot better than their male counterpart.

For both the executives, it was clear that a question about gender mainstreaming is in fact a question about the inclusion of women, and it is equally clear that this is where they directed their answers. The latter was not sure of which would be the appropriate term to use: females, or girls.

Furthering his answer about the existing policies his company has in terms of gender mainstreaming, **T.** said that “the policies are on one hand important, but the general sense is that they are disconnected from what is happening on the ground. When a lot of people write this big document but no one actually know what it means, no one is educated on it in the company.” **T.**’s thinking here points to perhaps a more significant problem, threefold in nature: that PMSC executives are suspicious of gender mainstreaming policies; that they perceive these policies as inappropriate to the field in which they work; and, finally, that even though such policies exist at the HQ level, they are clearly not implemented, as no one in the company is educated on the issue. These issues might have implications not only on a company’s organizational culture, but on the local population in general—women especially. These implications are apparent in the answer of the next executive, **D.**

D. also acknowledged the importance of having women in the firm, characterizing it as “a matter of human rights.” He explained that women would bring “stability, emotional stability”—two traits that are traditionally associated with femininity. Yet he too admitted that, in field operations, this “philosophy” is much harder to achieve. During the interview, he acknowledged that there is a potential of his staff falling into “bad behaviors”

with local women. “We all know what is happening in Africa, in those type of countries; you can find bars everywhere, bars with women, it’s very easy to fall to bad behavior,” he explained. He mentioned an internal procedure in which his staff are obligated to sign a contract promising compliance with the law, principles of gender equality, and best practices in terms of substance use, even when off-duty:

I was very strict and we do have a specific article [in the employees’ contracts] that says “The first bad behavior even if it was a small one you’ll be fired with no compensation, no nothing and everything would be reported.” [One] would say “Last night we had trouble with this guy, he went out on a bar and we had a complaint from someone,” [I say] “Out.” And that’s an engagement I provide to my customers. I say “Look, actually we are under ICoCA code of conduct, we’re working on the ISO certification so I can guarantee you I am doing my best to fulfill all those moral ethical components, and if there is any kind of grievance you have a channel for transmission to my chief of operation and we will take some sanctions.”

These answers all point to another trend within the industry—identified by Schultz and Yeung (2008) as a form of “re-segregation”—in which women in the field are assigned positions perceived as suitable for their gender. According to these writers, the gender trends in the private security sector largely imitate the broader trends of the labor market: “While women are entering the workforce, particularly in domestic PMSCs, their integration is uneven and often they are given positions which are low in status, largely unskilled, and tedious” (4). Women are perceived as organized, or emotionally stable—as

mentioned D's interview—but are excluded from positions requiring a great deal of authority and physical strength.

The perceptions expressed by the three executives interviewed vary on a scale of preferring not to have women in the organization at all (as it is culturally inappropriate) or having women in the organization, yet not on the field operations level. The latter is not a gender mainstreaming policy, but rather an “inclusion” perception based on an essentialized perception of femininity, and perhaps the belief that adding women to the organization is enough, without a structural change, a policy, or an inquiry of who are these women, what are their identities, beliefs and so on.

3.4 Interviews with other ICoCA stakeholders—“The relevant policies exist, yet they are new and there is still lack of knowledge in the field”

An interview I conducted with a civil society organization representative pointed to the need to educate industry members about issues of human rights. When asked what he considers to be the industry's biggest challenge in terms of human rights, this interview subject, S., replied as follows:

The question has, from my point of view a positive bias and that is that human rights should be respected. Which [as] you know from the field that's not necessarily the case. When you have people that operate either just based on profit maximization, or based on power, then human rights is secondary . . . they are not even clear what it means, “human rights.” The people who operate in the field do not necessarily have a Ph.D. There are people who maybe didn't find a job elsewhere, they are adventurers, they go by other instinctual motivations, where human rights is a concept that is maybe foreign to them so they don't know what it

concretely means when operating in the field. It's, to go back to your question, there's a need, to educate, to inform, guide, supervise, control and in the sense, show through positive leadership, what this really means, [this] human rights stuff.

S. seems to create a contrast between two kinds of masculinities: one is an educated, elitist, rational masculinity with access to education, perhaps even a PhD; the other operates on the basis of “instinctual motivations” and is not learned in the complexities of human rights. Even though he acknowledged the significance of human rights issues in general, when asked about the biggest challenge the industry faces in terms of gender and women's rights, **S.**'s reply reflected an essentializing perception of women as fragile individuals who shouldn't be found on the battle field:

The question is—do we want to emphasize equal rights, so women could also go and be confronted with lots of risks, [and] then as women additional risks? I don't know quite what to do about it. As women's equality trends, we should train women, integrate them into these operations, [let them] go out and face the risks or not. I'm not sure I prefer to keep, to protect; it's almost in a way to be like protective. To not let women go into areas, the worst case are like Syria for example . . . I don't know if you've heard the stories about what happened to Kurdish women who were fighting in that part of the world. The violence against women fighters is horrible . . . A women would face additional risk [of] sexual violence plus the risk of being shot at. I mean [gender mainstreaming] can be done; the question is, is it worth it? It would need extra additional educating, training of the males running in the field who are not again known to be very appropriate when it comes to handling relations with women . . . it would be an extra effort.

S.'s answer also reflects what Sharon Marcus (1992) called the "rape script." The standardized rape script proceeds as follows: men are naturally stronger than women, biologically endowed with the strength to commit rape. In what she names the "gendered grammar of violence," men are subjects of violence and aggression. Their bodies are hard, full, and projectile. Women are naturally weaker than men; they can employ empathy or persuasiveness to avert rape, but cannot stop it. In this script, women are subjects of fear. Their bodies are soft, open, vulnerable, and empty (J.K. Gibson – Graham 1996, 124). Yet Marcus reminds us that rapists do not exist or prevail because men are biologically stronger than women, but rather that rapists follow a social script and enact "conventional, gendered structures of feelings and action which seek to draw the rape target into a dialogue which is skewed against her" (Marcus 1992, 390). Similarly, it is possible to assume that women are in fact willing to work with the industry in complex environments, and that their added value should not be measured inside of a discourse that calculates their "inherent vulnerability."

When asked about the level of awareness of the industry to issues of gender and intersectionality, S.'s response was almost pessimistic:

The large majority of the people in the field are men. So the type of people doing this kind of work, I don't think many of them are positively interested in having better relations [other] than traditional relations between male and females. So I think there is work to be done by the leadership of the companies, and I'm not even sure that some of the smaller companies with traditional people from former services, that come from the military, [and] go in to private security companies, that they are a good role model for the people, the staff who works for them, and

particularly if the staff includes locals, who are in some countries very traditional still. It would take an extra effort. It's not impossible but there are lots of challenges. Referring to the environment in which the industry operates, **S.** also pointed to the general international political climate, which he perceives to be hostile to human rights in general, and gender norms in particular:

My assessment of the current situation is that we're sliding into high risk. I'm here in Geneva, Geneva used to be the League of Nations, which fell apart at the end of the 30s. Germans went into Nazi ideology, Italians into fascism, the Russians with Stalinism, the U.S. stayed out. Today the U.S. is pulling out. We have again some *naughty* stuff going on. So the complexity of the environment makes it difficult, not impossible, but difficult to keep focusing on values that we share, which you know are human rights, decent type of living, understanding other verses this so-called famous word *realpolitik* . . . I see it's getting more and more difficult to keep course of more humanitarian human values. So the job to change, I think is multiple not just the industry, I think we should help the society at large to understand the risk they are facing and what the role is of the people who work in the security industry. [*emphasis by the author*]

It could be that by using the word “naughty”—which can have a sexual connotation—after referring to the United States, **S.** is subtly referring to the president of the United States, Donald Trump, who has been accused of sexual misconduct. Furthermore, and referring back to the rape script, it is possible **S.** is drawing an analogy between democracy, international collaboration, and human rights norms, all of which are

now—according to his analysis—under threat; to women – both are seen as under “attack” and in need of “protection.”

Another interview was conducted with G., a representative of the ICoCA secretariat who was directly involved in the creation of the association’s guidelines regarding the prevention of sexual and gender based violence. At the time I conducted the interview – the ICoCA was in the process of developing the new guidelines. Up until May 2019 the ICoCA had no policy regarding gender mainstreaming, prevention of sexual abuse and so on. In the interview, G pointed to the need to educate the industry about issues of human rights in general, and gendered issues in particular:

The main challenge is lack of knowledge, we are talking about an industry that in most countries where they operate is unregulated or there is considerable number of companies which are operating without a license and therefore without paying attention to issues related to human rights. One of the greatest issues you’ll see is in terms of labor rights and respect for their own staff and personnel even before they can consider the human rights of people who might be impacted by the operations.

At the level of ICoCA, what we see is that the companies we usually work with are very knowledgeable about human rights and have departments of people appointed to look at these things specifically but [the] problem is that many companies operating in what we can define [as] complex environments are small companies, family-run, local and don’t necessarily know about international or international initiatives which are meant to protect the rights of the people who live in those areas where they operate, so this is what I mean with lack of knowledge.

While G. mentioned that the ICoCA members are more knowledgeable, some of the practices he learned about by interviewing member companies during the process of the guidelines' development are particularly disturbing. When asked to describe the main challenges the industry faces in the realm of human rights in general and gender issues in particular, he explained:

In most country this is a male dominated industry, an industry run by former military personnel who in some countries might have limited participation of women in armies, not in all the countries of course but in some of them, and this leads to a lack of consideration of the need to adopt specific gender measures to mitigate what could be perpetration of male dominated dynamics.

For example, I interviewed some stakeholders who told me that this is pretty common as part of recruitment procedures for the recruiters in their countries to ask female applicants [for] sexual favors in exchange for employment. Women in HR departments might be a form of mitigation measures to avoid and to prevent this from happening, the fact is that most of the companies might not think about this need, and that's where you can see that a cultural change is needed.

When explaining why the guidelines were developed just now, at the end of 2018, he implied that the process was directly related to the #MeToo movement, a global campaign meant to raise awareness of sexual harassment and assault: "I wouldn't say that it is because it is a particular risk, or [a] more . . . relevant risk within the industry, but I would say that especially at this stage attention to this particular topic, [is] also following some U.S. movements."

The process of developing and distributing the guidelines was just at its starting point when this interview was conducted, and G. mentioned that the guidelines—at the time, a document of 15-20 pages—might be elaborated upon in the future.

It seems that even though the guidelines are in place, the fact that they are only now developed and distributed raises questions. Furthermore, it should be noted that even when finalized the guidelines would only be relevant to approximately 100 member companies of the ICoCA, leaving the rest of the global industry—which operates in some of the most complex contexts on the globe—with no guidance at all in matters of human rights in general, and gender mainstreaming in particular, beyond their obligations under international law. The human rights ramifications of an armed non-state actor, operating with a limited policy and within a masculine discourse, could perhaps be inferred from the analysis of lessons learned from peacekeeping operations, presented in the next section.

Section 4: Observed episodes of gendered human rights violations

The literature on the privatization of military and security is interdisciplinary, and—as mentioned previously—disciplines including law, political science, and economics have contributed to the scholarship. However, there has been an insufficient attempt to critically analyze the harms caused by the industry, in the short term as well as the long term, and all the more so through a gendered lens. In this section, human rights violations committed by PMSCs—such as a case study of increased murder rates of Israeli women by their private security contractors spouses—will be analyzed in a way that highlights the gendered aspects, discourses, practices, and effects on different social groups. This analysis will attempt to address different layers of identity and social positioning, drawing from Crenshaw’s theory of intersectionality (1991), which argues that intersectional subordination is frequently the consequence of the imposition of one burden that interacts with pre-existing vulnerabilities to create yet another dimension of disempowerment (1,249).

There are many forms of what could be considered gender based violence. Wartime rape, for example, is perhaps the most acknowledged one in this context. Yet while this form of violence—widely acknowledged as a weapon of war—has perhaps been getting most of the research and policy attention, rape is not the only form of conflict-related sexual violence. The International Criminal Court (ICC) also places under this header sexual slavery, forced prostitution, forced pregnancy, and forced sterilization/abortion (Cohen &

Nordås 2014, 419). This section includes more traditional forms of gender based violence, presents gendered implications of other forms of harm, and aims to problematize the perceived dichotomy of men as perpetrators and women as victims.

The following are examples of the ways in which gendered harms could be manifested as the result of limited policies concerning gendered issues and the prevalent masculine discourse of the elites, as presented in the previous sections.

1) Murder of women by their private security spouses:

As argued by the various stakeholders of the ICoCA, as well as the relevant literature, the PMSC industry highly gendered and heavily masculinized. This starts with the constituent companies' hiring practices. Private security contractors are most likely to be men; there are extremely few women who work in private security as "protection providers." Instead, female employees are concentrated in "feminized" tasks associated with support functions (Eichler 2015, 65). The masculine majority, in addition to the observed masculine discourses among the elites, leads to a masculine corporate culture within the companies. Violent forms of masculinity are common in militaries, and amongst the personnel of peacekeeping operations. Presumably, despite the lack of reliable data on this matter, these same norms are also common in private military companies, which rely on former personnel of militaries and similar frameworks (Schulz & Yeung 2008, 4).

Moreover, a "macho" subculture, which is often common in male-dominated fields such as law enforcement and the military, has also been widespread in private military and security organizations (Ibid). Scholarship in the field of Masculinity Studies focuses on the performative nature of masculinity in such environments. The practice of masculinity as a gender is done through homo-social embodiment in which masculinity is performed in

front of other men. Men seek the approval of other men by at once identifying with and competing against each other. As part of this process, men attempt to improve and maintain their standing within the male social hierarchy by using “masculine symbols” such as occupational success, financial status, health and virility, physical abilities, and sexual achievements (Flood 2008, 341).

Within the context of the private security industry, private security contractors tend to perform “courage tests,” which often involve the objectification, sexualization, and demeaning of women, and might also include sexual abuse of women or other human rights violations (Schulz & Yeung 2008, 5). Sexual harassment in military organizations and practices such as the ones described above are strongly linked to low readiness for combat and poor leadership (Ibid). Poor leadership portends lack of supervision and shoddy discipline—and, in such a climate, severe human rights violations not only occur, but become increasingly likely.

Many examples of sexual and gender-based violence perpetrated by PMSCs—most of them occurring during a war—were published in the last two decades. One infamous example is the sexual abuse perpetrated against inmates of Abu Gharib prison in Iraq by private security contractors (Gardham & Cruickshank 2009). Another example of these kinds of human rights violations results from the long term presence of this industry, and not necessarily in a time of war.

In Israel, due to its precarious security situation, the nation has relied heavily on privatized security since the beginning of the 1990s. Private security protects myriad public institutions: schools, universities, central transportation stations, and shopping centers, to name just a few. Until 2013, employees of private security firms were permitted to take

their weapon home at the end of their shifts—and, from December 2002 to December 2011, twelve women were murdered by partners who worked as guards for such companies. Five of the murderers committed suicide following the act; one female security guard committed suicide (The Knesset Research and Information Center 2013).

The phenomenon intensified in 2013. In the first half of that year, there were five cases of women murdered by their partners wielding weapons owned by the partners' private security firms (Ibid). This relates to masculinity in that guns are, in a way, the ultimate performative embodiment of toxic masculinity. Representing masculine strength, they are used to express anger and rage in a world in which men are taught to suppress their feelings. The private security industry has allowed more men to have the access to this instrument of violence, and to then bring it home.

2) Human trafficking

Historically, sex work and the trafficking of women and children for the purposes of prostitution has been linked to the presence of regular armed forces. Scholars have showed that PMSCs heavily rely on employees who are former members of regular armed forces, and thus it is likely that these linkages and practices also apply to private contractors (Schulz & Yeung 2008, 5).

Multiple examples show the connection between PMSCs and human trafficking. In 2009, DynCorp employees who were in Afghanistan under a contract with the U.S. government paid a minor—who, according to some sources, was 15 years old; according to others, 17—to act as a *Bacha Baazi* performer for their entertainment. *Bacheh-baazi* is a form of child prostitution and sexual slavery where children are sold, in this case to PMSC employees, for sexual entertainment (Rarick 2015, 74). Though the company fired four

employees following the incident, neither DynCorp nor its employees ever faced criminal charges (Ibid). The United States has generally acknowledged that its increased use of PMSC deployments has contributed to the issue of human trafficking (U.S. Congress 2004). A more recent example can be found in Syria. In 2017, it was reported that Russian private security contractors were involved in human trafficking in the war-torn country. According to the report, they “bought virgins to act as ‘wives’ either for a year for £75 or ‘forever’ at a cost of £1,130 to £1,500” (Stewart 2017).

Yet while it is particularly common for the discourse around human trafficking to be gendered in and of itself, focusing mainly on female victims and on the sex industry, this is in fact only one form of human trafficking. The violent atmosphere that stems from masculine discourse in the PMSCs does not leave the private security contractors themselves immune to human rights violations.

Debt bondage is a form of human trafficking prevalent throughout the private security industry. According to one article that reported such cases, marginal populations such as former soldiers who find it difficult to reintegrate into civilian frameworks are the core recruits—or victims, more properly—of this industry in Eastern Europe. Recruits of a company called Slavonic Corps Limited, which operated in Syria in 2013, were offered \$20,000 for disability and \$40,000 for death, and no other social benefits (The Interpreter 2013). Contracts with this Hong Kong-registered company were “literally signed on knees on the platform at Leningrad railway station,” and new recruits were rushed: “Come on come on, time is running out” (Ibid). Bribed with a promised salary of 4,000 USD every month, they were given a solemn vow they would receive their first paycheck within a few days.

The articles reporting on this exploitation further mentioned that these men were “unaccustomed to paperwork”, and had faith in the contract as they did not believe they would find anyone who would want to cheat them (Ibid). In some cases, the contractors were completely unaware of the identity of the client—whether it was the Syrian government or another actor—and were only informed what the immediate mission was (Ibid). When in Syria, the employees were notified that “a return ticket costs money,” and that they were expected to “work it off, whether they liked it or not” (Ibid).

This pattern of human trafficking is a unique gendered risk that men face in the private security industry as a result of the companies’ hiring norms—norms which rely on subcontracting help, often through local hiring agencies. The victims face a push-pull situation: on one side, they are expected to be the “bread winners” of their families; on the other, they are forbidden to leave. According to the global data hub on human trafficking (2019), the most common means of control used on male victims in cases of human trafficking are false promises, takes of earning, psychological abuse, excessive working hours, restriction of movement, threats, withholding of documents, physical abuse, withholding of necessities, restriction on access to medical care, debt bondage, threat of law enforcement, and more. It seems like in this case, and probably in many others, multiple means were used on the victims.

Male victims of human trafficking are less likely to complain and report, leaving the phenomenon underreported, and making the men even more vulnerable. Instead of being treated as exploited individuals, they are at greater risk of being penalized or fined for offenses, such as crossing a border illegally, or of facing charges and imprisonment for crimes committed as a result of being subjected to trafficking (U.S. Department of State

2017). Reenactment, one of the symptoms of untreated trauma, may result in inflicting violence on others (Center for Substance Abuse Treatment 2014). Thus, these victims might be violent in the field and commit more human rights violations. Finally, these trafficked contractors might also be more vulnerable to injuries. The general death tolls of contractors are largely unreported—an attempt to avoid accountability. However, it would not be far-fetched to assume that trafficked contractors are also more prone to death.

In sum, this section presents my argument for the implications of the combination of the masculine discourses presented in the third section and limited policies in the realm of gender and human rights. While the incidents presented in this section were not committed by members of the ICoCA – these actors operate within the same structure, the same industry, using the same sub-contracting mechanisms, relaying on the same personnel and with no policies beyond international law. I assume that the discourse which both arises from and influences the operation of these private security actors is similar to the one described in the previous section. However, as ICoCA members are more regulated, and bound by the code of conduct and additional guidelines – it is worthwhile to discuss which kinds of policies and interventions, in accordance with the lessons learned from peacekeeping operations - could mitigate the effects of these discourses in order to reduce and even eliminate these kinds of human rights violations. This discussion is presented in the conclusion of this thesis.

This section also aimed to problematize the common notion that women are the main victims of gendered violence – demonstrating that a gendered analysis can reveal the

unique vulnerabilities both men and women face. The victims of these human rights violations should motivate all the relevant key stakeholders to act together and bring a change.

Section 5: The ICoCA guidelines:

This final section should not suffice for a comprehensive analysis of the ICoCA's recently released "Guidelines for Private Security Providers on Preventing and Addressing Sexual Exploitation and Abuse" (See appendix D). However in light of my analysis, this thesis would be incomplete without discussing some preliminary thoughts regarding both the potential and shortcomings of the new policy.

These guidelines were published and distributed in May 2019, with the purpose the address the potential abuse of human rights including SEA. These kinds of human rights violations are likely to occur, according to the document, in the complex environment where the rule of law has been weakened, as well as in private security operations (ICoCA 2019, 1). The guidelines have been developed in order to help companies comply with their obligations derived from the code of conduct. The document clearly states that it does not cover broader aspects of gender based violence or violence against women, solely focusing on SEA. I find the existence of these guidelines to be an important first step in the right direction, as it demonstrates that the ICoCA is attempting to address this kind of human rights violations. However, even from reading the statement of purpose which opens the document it is clear that this document covers a narrow area within the potential gendered implication the operation of the industry may have, as presented in the previous section. This is a clear shortcoming, as these guidelines do not suggest an answer to the challenge

of human trafficking in the form of debt bondage, for example, not do they address the perceived notion of men as perpetrators and women as victims.

In the definitions section of the document, it is stated that “The risk of sexual exploitation and abuse rises when companies fail to address acts of sexual harassment or operate in environments in which gender inequality persists” (Ibid, 2). While this statement shows an understanding that these acts could result from an insufficient organizational response to sexual harassment – it does not acknowledge the extent to which the internal discourse within the companies could have an effect on the contractors conduct on the ground, in a way that might result in human rights violations. An insufficient treatment in cases of sexual harassment could be one symptom of many other characteristics, such as courage tests. In this section, SEA is described as having “traumatic psychological, physical and social effects on survivors”. It is also described as “likely to cause serious reputational, operational, financial or legal detrimental consequences for private security companies (PSC) that tolerate it” (Ibid). However, I think the severity of SEA as a crime that could constitute a war crime¹⁰ is not conveyed in this section, or the entire document. The recommended disciplinary measures recommended later on in the document reflect this notion.

In the third section of “policies and procedures” a quote that is taken from an interview with a PMSC says: “the only way to prevent SEA is to promote a company culture that is concerned about these issues [cultural change] and to have a strong management leading by example” (Ibid, 3). This quote represents the importance of a

¹⁰ See UN Security Council passed Resolution 1820, which states “rape and other forms of sexual violence can constitute war crimes, crimes against humanity, or a constitutive act with respect to genocide.”

comprehensive intervention to address this potential kind of severe human rights violations. It echoes Moncrief's (2017) finding regarding the significance of the cultivation of value-based organizational culture in peacekeeping operations.

However, throughout the document, this notion does not appear beyond this quote. With only one exception, which noted that internal policies with regard to SEA must apply to all employees of the company (ICoCA 2019, 3) - when the management is mentioned in the document, it is only mentioned as the part of the organization which should impose "appropriate disciplinary measures" (Ibid, 8) and not as an integral part of the industry which also must be educated on this issue. As my interviews with the Industry's elite stakeholders show, the perceptions and discourses which disregard the importance of gender mainstreaming, along with several masculine discourses which may in some circumstances result in a violent corporate culture start at the upper management level. This document does not refer to this internal discourse and does not address the need to mainstream the policy in all of the corporations' levels.

One commendable aspect of the guidelines is the fact they emphasize that regardless of whether or not prostitution is legal or illegal in the area of operation – the prohibition on benefiting from sexual exploitation covers prostitution and should be included in the companies codes of conduct (Ibid, 5). This wording leaves no doubt and I find it to be particularly clear. Another particularly important emphasis was put on accessibility, mentioning that the codes of conduct should be translated into a language the personnel understand.

A notable deficiency of the guidelines is with regards to the question what should be the implications of misconduct with regards to SEA. In this section, called "codes of

conduct”, states that “every employee has a duty to comply with the company code of conduct and contribute to an environment that prevents and addresses acts of SEA...” (Ibid). Yet throughout document the language regarding potential implications of misconduct is vague and careful, stating “severe disciplinary measures, including dismissal” (Ibid, 8). While the emphasis on internal discipline is very important, as identified by Moncrief (2017) and Karim & Beardsley (2016) in the context of reduction on SEA in peacekeeping operations – I believe that a culture of discipline is effective as a preventative measure. However, considering the severity of the crime and the fact that under the general umbrella of SEA one could find crimes that could be considered as war crimes, it could have been expected that this document would directly to prosecute crimes to the fullest extent of the law, with accordance to the crime committed, and not just imply to internal disciplinary measures.

With regards to recruitment, the guidelines make it clear, similarly to findings of Karim & Beardsley (2016), clearly defined performance appraisal, and disciplinary procedures are vital elements of policies to prevent and address SEA (Ibid, 7). It is mentioned the hiring process should be transparent and fair, and - “in that it limits male dominance, securing gender diversity in HR departments may also reduce the incidence of SEA”. This is the only time the document refers to the importance of gender diversity, inclusion or mainstreaming in PMSCs, and it does so only in referring to one particular department within the organizations, the human resource department.

In terms of training and raising awareness, the guidelines recommend that given that staff may not be familiar with the SEA concept, there is a need to educate and train. The training should be an element of induction and refresher to all personnel, and it is

recommended to hold the refresher course at least ones a year (Ibid, 9). However. Considering to complex operational environment, the fact the personnel could rotate and not be aware of the new risks and challenges in terms of SEA, and the severity of the potential crimes, I find the recommendation to hold the training ones a year to be insufficient. In the list of recommended themes that should be included in the training for employees (Ibid, 9), once again the internal organizational culture and discourse are not included.

One of the most significant risk factors to SEA in the private security in the industry in sub-contracting. I found the focus given to these risks in the guidelines as satisfactory (Ibid, 12-13). The rest of the document puts measures in place that define the way in which complains and investigations should be handled, and the assistance that should be given to survivors. Both sections were written well and addressed all the expected procedures.

In sum, despite the flaws, these guidelines show a willingness on the part of ICoCA to address gendered concerns relating to the PMSC industry. They represent an important first step in addressing the concerns I raised in the analysis. While there is more work to be done, and more avenues of gendered harms that require addressing on the side of the organization, I hope this line of effort will continue and be enhanced in the future.

Conclusion

My thesis set out to explore the gendered intersectional aspects of the private security industry. Specifically, this thesis analyzed the discourses among elite stakeholders of the private security industry in order to gain insight into how and whether gender mainstreaming and other interventions may be useful tools for improving respect for human rights, and reducing gender based violence.

In the first section I discussed the rise of private security and military companies as a significant factor in conflicts around the world. I discussed the various failures that have contributed to the dubious reputation of the industry in terms of human rights. Among others I presented the lack of transparency and accountability, the fact that the industry is likely to inflame social tensions if security becomes a product only the rich can afford, and more. I presented a review of the relevant literature, both in the realms of private security and gender theory.

The second section discussed the similarities between PMSCs and peacekeeping operations, as two actors with shared characteristics who are likely to generate gendered human rights violations. These actors are not similar, if one takes into consideration the additional factors introduced by the commercial element of PMSCs. However, they share multiple characteristics such as the fact they both rely on personnel trained by, and hired from, organized militaries; they also both engage in military-style operations, as well as other security/stabilization missions. In addition, and similarly to what is identified with

regard to the masculine discourse among the elite stakeholders of the private security industry - many feminist activists have argued that the sexual exploitation and unchecked aggression against civilians in peacekeeping operations stems from military masculinity, which is hegemonic within western armed forces. In this section I presented and discussed interventions which were implemented in peacekeeping operations in order to address the masculine discourse and reduce instances of gendered forms of human rights violations, such as gender mainstreaming, increase of the discipline and more. These interventions were found to be effective in reducing gendered human rights violation in peacekeeping, and based on their shared characteristics, might be a useful analogy for anticipating how similar interventions could work in private security.

The third section presented a discourse analysis which was conducted during the 5th annual assembly of the ICoCA. This section provided additional analyses of interviews conducted with selected representatives during and following the conference. I identified multiple kinds of masculine discourses among the firms representatives, such as “new humanitarians”— a term coined by Joachim & Schneikner (2012a) which means a self perception as ethical warriors, who appropriate humanitarian language and action in an attempt to strengthen their public legitimacy, while navigating a complex environment in which “the indigenous” are making it difficult to operate. The discourses identified reflected multiple racial and class related power structures, and were characterized by specific undertones that included paternalism, imperialism, and more. The other interviews added additional insights regarding the existing policies of the ICoCA in the realm of gender mainstreaming. At the time the interviews were conducted, there were no guidelines

that addressed gendered human rights violations, and they were only published in May of 2019.

The fourth section examined the potential implications of the gendered language I observed at the ICoCA annual assembly by briefly recounting episodes of gender-based human rights abuses conducted by PMSCs. The effects of this industry on women and men was explained using examples from around the world, such as the increased murder rates of Israeli women by their private security contractors spouses, and patterns of human trafficking. While the human rights violations presented were not conducted by ICoCA members, they served as examples of the potential gendered harms that can result from limited policies concerning gendered issues and the prevalent masculine discourse of the elites. As the ICoCA member are more regulated and bound by the code of conduct, as well as additional guidelines - the question is whether or not the existing policies address the masculine discourse and its potential implications in the form of human rights violations.

In the last and final section, I evaluated the potential effectiveness and shortcomings of the recently released ICoCA guidelines on the preventing and addressing sexual exploitation and abuse. While I found that these policies are an important initial step in the right direction, and show a willingness on the part of the ICoCA to address one kind of gendered form of human rights violations – sexual abuse and exploitation, I also identified multiple deficiencies. For example, the existing policies do not recommend gender mainstreaming, nor do they address the internal discourses within the companies as a potential factor that can increase SEA. While they do recommend to conduct training to staff on issues of SEA, the recommended frequency of the trainings seems insufficient.

Based on the lessons learned from peacekeeping operations, and while acknowledging the differences between peacekeepers and private security operators, I offer these following suggestions for interventions that may impact the masculine discourse and reduce gendered patterns of human rights violations.

1) Gender mainstreaming at all corporate levels with an emphasis on identities: As argued in the second section, it was found that gender mainstreaming and increased feminine presence in field operations has significant and positive effects on a mission's effectiveness and ultimate results (UN Division for the Advancement of Woman 1995, Schulz and Yeung 2008). Furthermore, the presence of women fosters confidence and trust among the local population. This intervention might be efficient in addressing the masculine discourses that may disregard the severity of SEA and be able to reduce the "macho" corporate culture; both of which otherwise might result in human rights violations. Thus, I recommend a process that would be sensitive to the identities of the women added, and a comprehensive process that should include the management levels as well. The gender-mainstreaming should go hand in hand with training and education for the staff.

2) Training and capacity building: As evident from the literature on peacekeeping, there is a need to educate workers in order to address the underlying problems of inequitable power relations, and the potential gendered implications. This intervention should be ongoing and part of standard operation, rather than a single training exercise. Research has shown that weekly sessions, 2–2.5 hours long for a minimal duration of 10–16 weeks show the most evidence of effectiveness in terms of sustained attitude change (World Health Organization 2007). Therefore, multiple sessions will be more likely to have

a greater effect on masculine discourses. These interventions should be aimed at helping the private security forces develop a fundamental regard for gendered equality.

3) Nuanced recruitment: The recruitment should also take the findings of Karim & Beardsley (2016) into consideration, namely that the level of gender equality in the sending country has an impact on reduction of SEA. Speaking positively, this is one of the areas that the new ICoCA guidelines address. Targeted recruitment should be done in both developed and developing countries, of both men and women. Recruits should be evaluated on the basis of their values of gender equality. This inclusion should take place both on the field operations level and management level.

4) Improvement of the disciplinary culture: This intervention is necessary, as is evident from peacekeeping operations. PMSC personnel should be made aware that a breach of misconduct could, in some cases, constitute a war crime. Companies should be prepared to cooperate with all relevant authorities in such cases, to the fullest extent of the law. Once this is addressed, the disciplinary culture could have a significant impact on reducing human rights violations on the ground.

5) Increase the access of the workers of the private security companies to grievance mechanisms: In order to address the issue of human trafficking, beyond the existing solutions (such as a thorough due diligence of recruitment agencies) – workers at all levels should be educated on the grievance mechanisms of the ICoCA, and know that they have a means of addressing potential human rights violation.

Looking forward, it is recommended ICoCA continue to develop policies regarding additional forms of human rights violations, such as human trafficking. In this regard the panel at the Fifth Annual Assembly was a significant indication of potential future

progress. Furthermore, with regards to all of the suggested policy interventions, it is clear that there is no “one size fits all” solution to the challenges discussed in this thesis. Each company is likely to encounter different challenges relating to unique operating environments, services it provides, etc. A change in discourse and an improvement of the policies that could address the gendered harms caused by the PMSC industry will be a prolonged, non-linear process.

Lastly, I chose to end the thesis with the following quote:

“What I especially love . . . is this intimate alliance—which for me makes the true man—of pessimism of the intelligence, which penetrates every illusion, and optimism of the will. It is this natural bravery that is the flower of a good people, which ‘does not need to hope to undertake and to succeed to persevere,’ but which lives in struggle over and above suffering, doubt, and the blasts of nothingness because his fiery life is the negation of death. And because his doubt itself, the French “What do I know?” becomes the weapon of hope, barring the road to discouragement and saying to his dreams of action and revolution: “Why not?”” (Romain Rolland, cited in David Fischer 1988)

I am full of hope that intervention could potentially improve the situation for women, men, and children affected by the private security industry around the globe.

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Appendices

Appendix A: Verbal Recruitment Script

Note: Recruitment will occur during the annual assembly of the International Code of Conduct Association.

Hi, my name is Noa, and I am a M.A candidate in International human rights at the University of Denver. I would like to ask you if you might be willing to participate in a research study for my thesis on private security. I was wondering if you would be willing to talk to me for a few minutes about your role, about the ICoCA, about challenges the industry faces and the future.

I am particularly interested in issues of human rights and women's rights. If you decide to participate, there is no compensation for the study, but I believe that the study will reveal important ways in which the industry can improve in the future. If it is ok with you, I would like to audio-record your interview. If there is any information you would like me to not use (name/title) I would delete.

Thank you.

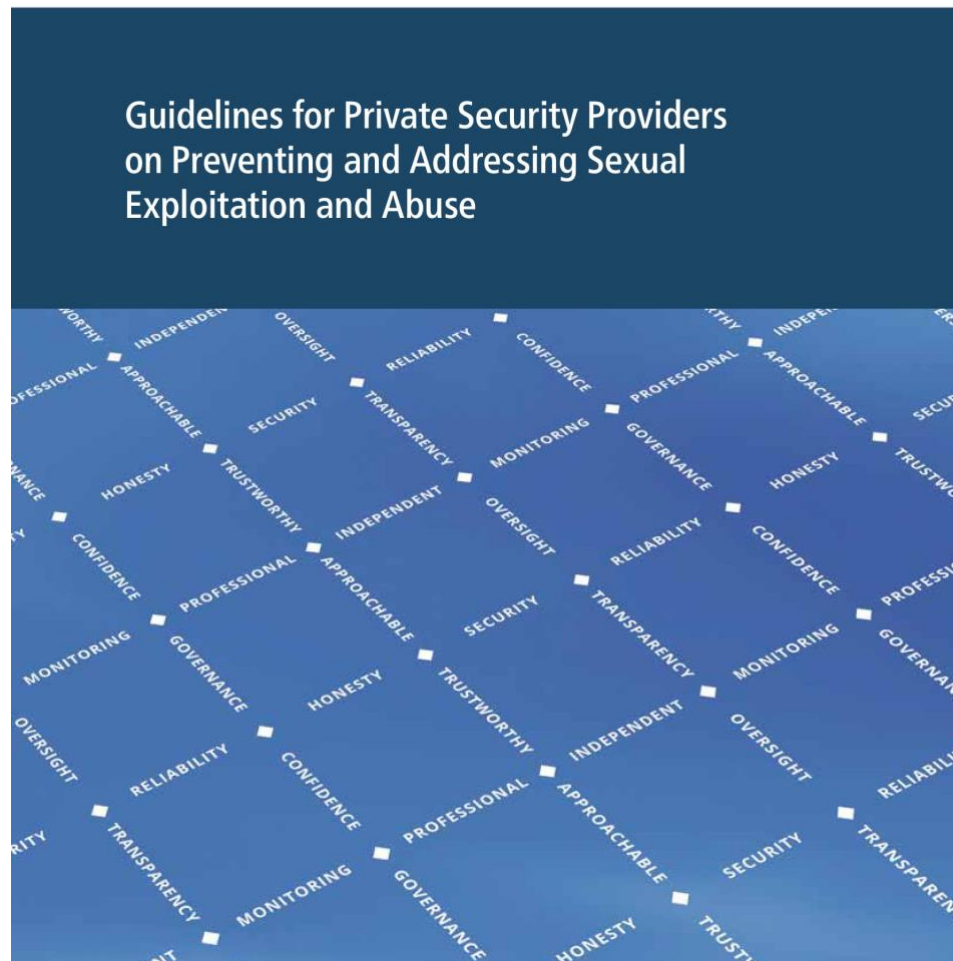
Appendix B: Interview questions for private security firms' representatives

- 1) Please describe your position in your firm?
- 2) To what extent would you say norms of human rights /best practices are central/mainstreamed in your firm and in the field operations?
- 3) To what extent would you say norms of gender/best practices regarding gender are mainstreamed in your firm and in the field operations?
- 4) What obstacles do you face in the enactment of these principles on the ground? What do you consider as the bottle neck?
- 5) What would you change in the industry in order to improve (if you could?) What is your firm trying to do better? (What kind of internal mechanisms exist?)
- 6) What advice would you give to smaller companies regarding best practices in the realm of gender mainstreaming?
- 7) What are the biggest challenges you believe the firms face in terms of interaction with local populations around the world (young and elder people, indigenous populations and so on)? Would you be able to explain about regulations/practices that exist to address these challenges? (internal/external)

Appendix C: Interview questions for NGO representatives:

- 1) How would you describe the biggest challenge of the industry in terms of human rights?
- 2) How would you describe the biggest challenge of the industry in terms of women's rights/gender?
- 2) What would you define as the biggest strengths of the existing monitoring and regulation mechanisms, and what are the weaknesses?
- 3) How would you rate the level of awareness of the industry to issues of gender and intersectionality?
- 4) If you could enact any reform in the field – what would it be? What would you change in particular?
- 5) What do you think is the role of NGO in terms of external monitoring?

Appendix D: Guidelines for Private Security Providers on Preventing and Addressing Sexual Exploitation and Abuse





**Guidelines for Private Security Providers
on Preventing and Addressing Sexual
Exploitation and Abuse**

The contents of this publication may be freely used and copied for educational and other non-commercial purposes. The good practices and guidelines included in this document are not meant to be prescriptive. It is up to the user to evaluate whether the guidelines are feasible, useful and appropriate to the Company and in the operating environment. The ICoCA shall not be liable for any loss or damage to a Member Company or third party resulting from reliance on these Guidelines.

Contents

1. PURPOSE	1
2. DEFINITIONS	2
3. POLICIES AND PROCEDURES	3
4. CODES OF CONDUCT	5
5. RECRUITMENT, PERFORMANCE APPRAISAL AND DISCIPLINE	7
6. TRAINING AND RAISING AWARENESS	9
7. OPERATION DESIGN AND RISK ASSESSMENT	11
8. AGREEMENTS WITH PARTNERS AND SUBCONTRACTORS	12
9. SEA COMPLAINTS AND INVESTIGATION	14
10. SURVIVOR ASSISTANCE	17
11. CONCLUSION	18
ACKNOWLEDGEMENTS	19
ANNEX I – CHECKLIST	20
ANNEX II – USEFUL RESOURCES	22

1. Purpose

In complex environments where the rule of law has been weakened, abuses of human rights, including sexual exploitation and abuse (SEA), are more likely to occur. Paragraph 38 of the **International Code of Conduct for Private Security Service Providers**¹ ('the Code') reads:

Signatory Companies will not benefit from, nor allow their Personnel to engage in or benefit from, sexual exploitation (including, for these purposes, prostitution) and abuse or gender-based violence or crimes, either within the Company or externally, including rape, sexual harassment, or any other form of sexual abuse or violence. Signatory Companies will, and will require their Personnel to, remain vigilant for all instances of sexual or gender-based violence and, where discovered, report such instances to competent authorities.

Recognising that SEA may occur in private security operations, private security industry standards, such as ANSI/ASIS PSC.1-2012 and ISO 18788:2015, also identify safeguards that companies need to adopt to address this risk.² In addition, clients and major donors increasingly stipulate that failure to address SEA is a justification for terminating contractual agreements.³

These Guidelines have been developed by the International Code of Conduct Association (ICoCA) following extensive consultation with Member Companies and other stakeholders. They will help companies to comply with the obligations that derive from Paragraph 38 of the Code, mitigate the risk of SEA effectively, and address incidents and allegations. The Guidelines focus on preventing and addressing sexual exploitation and abuse (PSEA) and do not cover broader aspects of gender-based violence (GBV) or violence against women (VAW).

¹ The Code is available in several languages at: https://icoca.ch/en/the_icoc.

² See: ANSI/ASIS PSC.1-2012 (R2017), Section 9.3 (Competence, Training and Awareness); Annex A.9.1.1 (Establishing Norms of Behavior and Codes of Ethical Conduct); Annex A.9.2.2 (Selection, Background Screening, and Vetting of Personnel); and Annex A.9.3 (Competence, Training and Awareness). See also: ISO 18788:2015(E), Section 7.2.2 (Competency Identification); Annex A.6.1.2.1 (General); Annex A.7.2 (Competence); Annex A.8.2 (Establishing norms of behaviour and codes of ethical conduct); and Annex A.8.6.2.2 (Selection, background screening and vetting of personnel).

³ See Paragraph 3, United Nations, Protocol on allegations of sexual exploitation and abuse involving implementing partners: "The UN does not partner with entities that fail to address sexual exploitation and abuse through appropriate preventive measures, investigation and corrective action. Such failures shall constitute grounds for the termination of any cooperative arrangement with the UN". At: https://interagencystandingcommittee.org/system/files/un_protocol_on_sea_allegations_involving_implementing_partners_final.pdf.

2. Definitions

Bulletin 13 of the United Nations Secretary-General (2003) defines sexual exploitation as “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another”. It defines sexual abuse as “the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions”.⁴

The risk of sexual exploitation and abuse rises when companies fail to address acts of sexual harassment or operate in environments in which gender inequality persists. Sexual harassment is explicitly prohibited in Paragraph 38 of the Code, and is defined in Bulletin 5 of the United Nations Secretary-General (2008).⁵

SEA has traumatic psychological, physical and social effects on survivors. In addition, it is likely to cause serious reputational, operational, financial or legal detrimental consequences for private security companies (PSC) that tolerate it.

⁴ United Nations, Secretary-General’s Bulletin, Special measures for protection from sexual exploitation and sexual abuse, ST/SGB/2003/13, 9 October 2003, Section 1, p. 1.
At: <https://undocs.org/ST/SGB/2003/13>.

⁵ United Nations, Secretary-General’s Bulletin, Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority, ST/SGB/2008/5, 11 February 2008. Section 1.3, p. 1, states: “Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders.” At: <https://undocs.org/ST/SGB/2008/5>.

3. Policies and procedures

Guideline. Declare and disseminate PSEA requirements in internal policies and processes that are developed in consultation with personnel, and adopt an implementation plan.

To prevent SEA from occurring and adequately address potential incidents, ICoCA Member Companies should articulate PSEA requirements and processes clearly in their internal policies, regardless of whether the government or licensing requirements require them to do so.⁶ This can be achieved by developing a PSEA-specific policy or by embedding PSEA in existing policies and procedures.

Interview with a PSC

"A proper PSEA strategy should include the following elements: recruitment policy; induction and training; performance management; whistleblowing; discipline and grievance/complaints; partnership agreements; policy implementation, monitoring and review; budget to implement."

In both cases, company staff at all levels should actively contribute to, and be involved in, the policy development process. Adopting a participatory approach will enable the company to develop policies that reflect employees' views and expectations as well as local culture and operational realities. In addition, staff will become more aware and will understand the need to address SEA effectively.

Companies should take account of the local context and culture when they implement PSEA policies. At no point, however, should consultation or cultural sensitivity compromise core standards of conduct. Zero tolerance and full accountability should always guide both the development and the implementation of PSEA policies.

Interview with a PSC

"The only way to prevent SEA is to promote a company culture that is concerned about these issues [cultural change] and to have a strong management leading by example."

The features of a PSEA policy are set out in more detail in the sections that follow.

What to do

1. **Develop a PSEA-specific policy or embed PSEA in existing policies and procedures** in consultation with personnel. Clarify:
 - What SEA is and that it is always prohibited both in the company and in its operations.
 - The standards of conduct applicable to personnel with respect to SEA.
 - To whom the policy applies. Ideally, it should apply to every person employed by the company, irrespective of the nature of the employment relationship, including consultants, interns, and temporary support personnel.
 - The correct procedures for reporting cases of alleged SEA.

⁶ See also: ANSI/ASIS PSC.1-2012 (R2017), Section 9.3 (Competence, Training and Awareness); and ISO 18788:2015(E), Section 7.2.2 (Competency Identification) and Annex A.6.1.2.1 (General).

- The disciplinary and legal consequences of violating PSEA standards of conduct
 - The responsibilities of management to enforce the standards and promote a company culture that prevents and addresses acts of SEA.⁷
2. **Develop a work plan to implement the PSEA policy**, identifying:
 - Goals and objectives.
 - The responsibilities of persons and departments.
 - The risk factors that may hinder implementation of the policy and planned responses.
 - Indicators to measure progress.
 - Relevant budgetary needs.
 3. **Constantly monitor implementation of the work plan and regularly review the policy** to ensure that both the plan and the policy remain effective and relevant to the company's operations.

⁷ For example, managers might be expected to raise awareness of the risks and consequences of SEA, conduct training, assess complaints, protect witnesses, or take disciplinary action against perpetrators.

4. Codes of conduct

Guideline. Explicitly prohibit SEA in the company's code of conduct and set out the responsibilities of employees with respect to it.

The instrument that sets out the standards of conduct that personnel are expected to follow is usually the company's code of conduct, sometimes also called 'code of ethics' or 'code of behaviour'. Board-recognised industry standards for ICoCA Certification expressly require companies to adopt a code of conduct.⁸ These codes serve several purposes. They set out standards of professional conduct that prevent misbehaviour and promote good practice; guide day-to-day decision-making; and communicate a company's values and commitments both internally and externally.⁹ It is essential that all ICoCA Member Companies explicitly prohibit sexual exploitation and abuse in their internal codes of conduct.¹⁰

Company codes of conduct should be comprehensible to staff. They should be written simply and concisely and, where a company operates in various environments, be translated into local languages.

What to do

1. Adopt a company code of conduct which makes clear that:

- Sexual exploitation and sexual abuse are serious human rights abuses,¹¹ and when perpetrated in the context of armed conflicts can, under certain circumstances, also violate norms of international humanitarian law.¹²
- Certain forms of SEA are crimes in national law and may incur criminal liability.
- The prohibition on benefiting from sexual exploitation in Paragraph 38 of the Code covers the use of prostitutes, regardless of whether prostitution is legal or illegal in the area of operations.
- Every employee has a duty to comply with the company code of conduct and contribute to an environment that prevents and addresses acts of SEA, including by reporting incidents and concerns and cooperating in internal and external investigations.

⁸ See: ANSI/ASIS PSC.1-2012 (R2017), Section 9.1.2 (Establishing Norms of Behavior and Codes of Ethical Conduct); ISO 18788:2015(E), Section 8.2 (Establishing norms of behaviour and codes of ethical conduct); and ISO 28007-1:2015(E), Section 4.1.7 (Organizational roles, responsibilities and authorities). For further information on standards recognised by ICoCA, see: <https://icoca.ch/en/icoca-recognised-standards>.

⁹ Ethics and Compliance Initiative (ECI), *Why Have a Code of Conduct?* At: <http://www.ethics.org/resources/free-toolkit/code-of-conduct>.

¹⁰ See also ANSI/ASIS PSC.1-2012 (R2017), Annex A.9.1.1 (Establishing Norms of Behavior and Codes of Ethical Conduct); and ISO 18788:2015(E), Annex A.8.2 (Establishing norms of behaviour and codes of ethical conduct).

¹¹ See Geneva Academy of International Humanitarian Law and Human Rights, *What amounts to 'a serious violation of international human rights law? An analysis of practice and expert opinion for the purpose of the 2013 Arms Trade Treaty* (Academy Briefing, No. 6), p. 38. At: https://www.geneva-academy.ch/joomla/tools-files/docman-files/Publications/Academy%20Briefings/Briefing%206%20What%20is%20a%20serious%20violation%20of%20human%20rights%20law_Academy%20Briefing%20No%206.pdf.

¹² See International Committee of the Red Cross (ICRC), *Rule 93. Rape and Other Forms of Sexual Violence* (Customary IHL Database). At: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule93.

- Any form of SEA constitutes serious misconduct that betrays the values of the company and is likely to harm its reputation. SEA abuses are therefore subject to severe disciplinary measures, including dismissal.
2. **Translate the company code of conduct into a language that personnel understand.**

5. Recruitment, performance appraisal and discipline

Guideline. Embed PSEA in recruitment and performance appraisal processes and establish disciplinary procedures to respond to violations.

Effective recruitment, clearly defined performance appraisal, and disciplinary procedures are vital elements of policies to prevent and address SEA. Selection and vetting processes informed by PSEA principles screen out candidates who might not abide by expected standards of conduct,¹³ while performance appraisal and disciplinary procedures allow the company to assess the contribution that staff make to implementation of the PSEA policy, and respond promptly and effectively to violations.

To ensure effective personnel recruitment, company human resources (HR) departments should include professionals with knowledge and understanding of SEA issues who can identify and analyse relevant concerns.

Companies should be aware that SEA can also occur during recruitment. For instance, a recruiter may exploit his or her position of power to request sexual favours of applicants in exchange for employment.

Interview with a civil society organisation

"[In my country] SEA is more an internal issue [referring to the sexual exploitation of vulnerable women during recruitment or afterwards] than an external one [in relation to abuses against local communities] for private security companies. The industry is very male-dominated [...] Companies do not adopt specific gender measures to protect women and often expose them to significant risks."

To reduce this risk, ICoCA Member Companies should ensure their hiring processes are transparent and fair. In that it limits male dominance, securing gender diversity in HR departments may also reduce the incidence of SEA.

What to do

1. Integrate a PSEA focus in the recruitment process.

- If the company uses a standard job application form, ask applicants to indicate whether they have been involved in SEA abuses in the past.
- In interviews, ask questions to assess whether candidates are likely to comply with standards of conduct, including PSEA, and assess their responses.¹⁴

¹³ See: ANSI/ASIS PSC.1-2012 (R2017), Annex A.9.2.2 (Selection, Background Screening, and Vetting of Personnel); and ISO 18788:2015(E), Annex A.8.6.2.2 (Selection, Background Screening and Vetting of Personnel).

¹⁴ For example, interviewers might present different scenarios to candidates and ask them to say what behaviour is appropriate in the circumstances described.

- Request candidates to supply at least two references and ask referees to assess candidates' ability to respect standards of conduct, including whether candidates have ever been accused of, or faced disciplinary procedures for, SEA offences.¹⁵
 - Conduct criminal background checks in cooperation with the police, other competent national authorities, or local industry associations, where appropriate.¹⁶
 - Investigate gaps in the employment history of applicants to ascertain that they have not been imprisoned for SEA-related crimes.
 - When the contract is offered, provide the successful candidate with a copy of the company code of conduct. Ensure that he or she has adequate time to read and understand its provisions and give him or her an opportunity to ask questions and seek clarification. Require him or her to sign a declaration confirming that he or she has read and understood the provisions of the company's code of conduct and undertakes to comply with them.
 - In the case of managers, include clauses in their contracts that specify their responsibility to promote and uphold the company's code of conduct, including its provisions on PSEA.
2. **Embed PSEA in performance appraisal procedures** by taking account of each staff member's:
- Participation in PSEA training.
 - Adherence to the values set out in the company's code of conduct.
 - Overall contribution to creating an environment that prevents and addresses SEA.
3. **Establish disciplinary procedures for SEA abuses and communicate them to personnel.**
- Describe in staff rules and regulations the potential consequences of violating the standards contained in the company's code of conduct.¹⁷
 - Make clear that all cases of SEA are subject to severe disciplinary measures.
 - Require managers to impose appropriate disciplinary measures on staff they manage who commit acts of SEA.
 - Ensure that the company's leadership imposes appropriate disciplinary measures on managers who are found to have condoned, facilitated or engaged in SEA.

¹⁵ Data privacy laws may forbid the collection of such information without the explicit consent of the candidate. In such cases, ICoCA Member Companies should obtain applicants' written consent before approaching their referees and share candidates' statement of consent with referees.

¹⁶ Where documentary records are unavailable or unreliable, use any reliable local community, government or nongovernment source to corroborate an applicant's ability to perform duties in accordance with established standards.

¹⁷ Disciplinary measures might range from an oral or written reprimand to suspension, repatriation, or dismissal.

6. Training and raising awareness

Guideline. Provide initial and recurrent training on PSEA. Make staff aware of relevant standards of conduct, the company's commitments, and mechanisms in place to address abuses.

Since many staff may not be familiar with SEA concepts or the instruments available to prevent and address it, PSEA training is crucial, both to familiarise staff with PSEA standards and ensure that private security services are delivered responsibly.¹⁸

PSEA training can be included in a broader human rights module and should be an element of induction and refresher training for all personnel. Ideally, induction training should occur before new recruits are deployed. This sets expectations and highlights the company's determination to enforce standards. Refresher training subsequently helps staff to deepen their awareness of PSEA concepts as part of their ongoing education. Staff should participate in refresher courses at least once a year. Both types of training aim to:

1. Increase employees' knowledge and understanding of SEA and its dynamics.
2. Familiarise personnel with the company's PSEA policies and national and international legal frameworks relevant to SEA.
3. Ensure that personnel understand procedures for responding to and reporting cases of SEA.
4. Make personnel aware of their own roles and responsibility to prevent and address SEA.
5. Help personnel to identify potential vulnerabilities or areas of risk in their day-to-day operations in relation to SEA.
6. Generate staff input and feedback that can assist the company to update and improve its PSEA policies and procedures.

What to do

1. **Provide initial and recurrent PSEA training to personnel.**
 - Explain the definition and understanding of sexual exploitation and sexual abuse, and their characteristics, as set out notably in the UN Secretary-General's Bulletin number 13 of 2003.¹⁹
 - Make clear that 'benefiting' from sexual exploitation includes the use of prostitutes, whether or not prostitution is legal in the area of operations.²⁰

¹⁸ See also: ANSI/ASIS PSC.1-2012 (R2017), Annex A.9.3 (Competence, Training and Awareness); and ISO 18788:2015(E), Annex A.7.2 (Competence).

¹⁹ Sexual exploitation and sexual abuse differ. Differences of power or trust between the survivor and the perpetrator, and motives of profit, are always present in cases of sexual exploitation, whether exploitation occurred or was attempted. Cases of sexual abuse do not necessarily involve physical intrusion by force; the mere threat of a forced sexual act, when made in the context of unequal or coercive conditions, is deemed sufficient to constitute abuse.

²⁰ The argument is that prostitution persists because those who provide sexual services are often vulnerable, lack economic options, or feel obliged to engage in survival sex. While a company cannot assess the actual situation of those who provide sexual services, it should ensure that neither the company's conduct, nor the conduct of its staff, exacerbate the vulnerability of people with whom they interact.

- Describe the risk factors and dynamics that underlie the occurrence of SEA.²¹
 - Show the impact of SEA on survivors²² and why it is often difficult for them to report the abuses they suffered.²³
 - Stress the potential harm to the company of acts of SEA committed by staff.²⁴
 - Underline the company's prohibition of SEA and the standards of conduct that personnel are expected to observe, as set out in the company's code of conduct and relevant national and international laws.
 - Describe the disciplinary measures that may be imposed on staff found guilty of violating PSEA standards of conduct.²⁵
 - Explain the mechanisms that are available to report cases of SEA and protect survivors, complainants and witnesses.²⁶
2. **Provide specific training to managers** on how to implement PSEA policies and procedures and on their responsibility to create an environment that prevents and addresses SEA incidents. After training managers should be able to:
 - Identify warning signs of SEA, improving case detection and reporting.
 - Manage SEA reports and complaints appropriately.
 3. **Adapt the content of training to the operating environment**, in order to enhance its effectiveness, taking into account:
 - Local SEA risk factors as identified in the risk assessment for the operation.
 - Cultural expectations and practices of both local communities and those attending the training.
 4. **Consider drawing on support from subject-matter experts or local civil society organisations**, who can provide PSEA expertise and help to develop training material and deliver trainings.
 5. **Invite a senior manager to open and close the training session** to emphasise the company's commitment to PSEA.
 6. **Use additional instruments to raise staff awareness**. For example:
 - Display the company's code of conduct in office spaces.
 - Use posters, leaflets and sensitisation cards to promote standards of conduct and explain how to report SEA incidents or concerns.
 - Put PSEA issues on the agenda of staff meetings and group discussions.

²¹ These include the power and gender inequalities present in every society and operating environment.

²² These include psychological, physical and social consequences.

²³ Reasons include: fear of retribution; shame; fear of social consequences or loss of reputation; poverty or economic dependence; lack of trust in, or information about, available mechanisms; obedience to local customs or practices that condone SEA or discourage reporting, etc.

²⁴ Harms may be of a reputational, operational, financial or legal nature.

²⁵ These may include both company disciplinary measures and criminal prosecution.

²⁶ For example, complaint mechanisms, programmes to assist and compensate survivors, whistleblower procedures, and policies to protect victims and witnesses from retaliation.

7. Operation design and risk assessment

Guideline. Identify and address SEA risks in advance of each operation.

ICoCA Member Companies have a responsibility to exercise due diligence in the provision of their services. Recognising the risks posed by SEA, that companies have committed to operate to the highest standards, and that clients increasingly require companies to adopt adequate safeguards to prevent these types of abuse, ICoCA Member Companies should carefully assess SEA risks and concerns before each operation through independent analysis and consultation with their clients. During human rights risk assessments (HRRAs) conducted for their operations, companies should identify potential internal and external SEA factors that might put at risk implementation of the contract, and introduce measures that address the risks identified.

Best practice

One good practice identified by ICoCA during field missions is the provision of door-to-door transport for female guards on night shift.

What to do

1. **Conduct SEA risk assessments** to identify:
 - The specific SEA risk factors in the operating environment.²⁷
 - Specific internal and external SEA risk factors associated with the operation.²⁸
 - The likely occurrence of SEA and the level of risk, on a predetermined scale (i.e. insignificant, low, medium, high, extremely high).
 - Who is most at risk of SEA in the context of the operation.²⁹
 - The impacts that SEA survivors are likely to experience.³⁰
 - What types of assistance SEA survivors are likely to need and what services are available to the operation.
 - The quality of such services and their accessibility.
 - The effectiveness of existing risk mitigation measures, and the need to adjust them or adopt additional measures.
 - Which staff or department is responsible for adopting and supervising risk mitigation measures in the course of the operation.
 - The timeframe for adopting risk mitigation measures.
 - Whether residual risks are tolerable.
2. **Consider drawing on support from local civil society organisations** to identify risks and assess whether the risk mitigation measures adopted are effective and appropriate in the local context.

²⁷ These might include significant power and gender inequalities in the local society, weak accountability frameworks, or a culture of impunity for SEA perpetrators, for example.

²⁸ SEA risks may be higher, for example, in environments that are particularly complex and insecure, in remote locations where staff are relatively unsupervised, or where staff are separated from their families for long periods.

²⁹ Those at higher risk might include women staff, children, and marginalised or vulnerable members of local communities, for example.

³⁰ Pay particular attention to social impacts because these differ from one location to another.

8. Agreements with partners and subcontractors

Guideline. In advance of each operation, assess the ability of partners and subcontractors to comply with PSEA standards of conduct. Require partners and subcontractors to commit explicitly to these standards and monitor their compliance.

Private security companies sometimes work through subcontractors or partnership agreements with other security companies. Before such operations start, and to ensure they are carried out responsibly, ICoCA Member Companies should evaluate the extent to which their partners or subcontractors are able to comply with the standards of conduct laid out in the Code and the company's code of conduct.

Partners and subcontractors should be required contractually to comply with these standards.³¹

The Code

50. Signatory Companies will exercise due diligence in the selection, vetting and ongoing performance review of all subcontractors performing Security Services.

51. In accordance with principle 13 of this Code, Signatory Companies will require that their Personnel and all subcontractors and other parties carrying out Security Services under the contract, operate in accordance with the principles contained in this Code and the standards derived from the Code [...].

The objective is to ensure that all persons or entities employed to provide security services, whether or not they work for an ICoCA Member Company, are aware of PSEA requirements and are adequately trained and equipped to respect relevant standards.

What to do

1. **Before an operation, assess whether partners or subcontractors are likely to comply with PSEA standards of conduct.** Consider:
 - The effectiveness of the counterpart's internal management system in preventing and addressing SEA abuses. In particular, verify whether the company has adopted and enforced a company code of conduct that explicitly prohibits SEA, and whether its internal policies and procedures address SEA as recommended in these Guidelines.
 - The past record of the partner or subcontractor with respect to cases of SEA, and the measures it has adopted to respond to incidents and prevent reoccurrence.
 - The quality and frequency of PSEA training that partners or subcontractors provide to their personnel.

³¹ See also: ANSI/ASIS PSC.1-2012 (R2017), Section 8.3 (Outsourcing and Subcontracting); and ISO 18788:2015(E), Section 7.1.2.4 (Outsourcing and Subcontracting).

2. **Include PSEA clauses in agreements with partners and subcontractors** and consider the contract's validity to be conditional on their acceptance.
 - If the partner's or subcontractor's code of conduct does not refer to PSEA, or does not do so adequately, consider inserting references to your own company code of conduct or PSEA policy, and request the partner or subcontractor to sign a declaration stating that it is aware of, and commits to comply with, expected standards of behaviour.
 - Where partner or subcontractor personnel need additional PSEA training, make clear how and when this will be provided.³²
 - Define in clear terms how SEA complaints for acts committed by personnel of the partner or the subcontractor will be managed.³³
 - Identify the sanctions that may be imposed for violations of PSEA standards of conduct, both on individual perpetrators and potentially on the partner or subcontractor.
3. **Constantly monitor the implementation of PSEA clauses contained in the contract** and, if deficiencies are identified, take appropriate action to address them without delay.

³² For example, training sessions for the personnel of both companies may be organised; or the partner or subcontractor may be asked to organise additional PSEA training for its staff.

³³ Clarify whether SEA complaints that arise in the context of joint operations will be processed through the company grievance mechanism (CGM) of the principal contractor. If not, clarify how the different CGMs of the companies will coordinate.

9. SEA complaints and investigation

Guideline. Adopt a survivor-centred approach to SEA complaints and report cases of sexual violence to the competent authorities.

Even when a company has adopted and implemented a comprehensive PSEA policy and complied with international standards and its obligations under applicable national law, SEA abuses may still occur in the company or in its operations. A company's grievance mechanism is the principal instrument for gathering allegations of SEA, through complaints submitted by the company's personnel or third parties (individuals, communities, clients, civil or military authorities, suppliers, trades unions, NGOs, etc.).³⁴

Because SEA complaints are characteristically complex and personal, ICoCA Member Companies should make sure that their company grievance mechanisms make specific arrangements for dealing with these types of allegation.

Interview with a PSC

Private security companies "should cover this aspect [i.e. sexual exploitation and abuse] explicitly in their grievance mechanism".

It is especially important to adopt a survivor-centred approach. The objective should be to protect the person who has suffered abuse and make sure that the grievance process does not avoidably exacerbate his or her trauma.³⁵ This aim should run through every stage of the complaint reporting and assessment process.

United Nations Protocol on allegations of sexual exploitation and abuse involving implementing partners, Paragraph 5

"A victim-centered approach guides UN SEA prevention and response whereby the victim is informed, participates in the decision-making process and provides consent on the possible use and disclosure of their information."

What to do

1. **Adopt a survivor-centred approach by:**
 - Prioritising the rights, needs and wishes of the survivor,³⁶
 - Respecting the survivor's privacy and his or her confidentiality needs.

³⁴ This guide focuses on elements relevant to SEA complaints. For more information on how to effectively establish and maintain CGMs, see ICoCA, *Manual: Developing and operating fair and accessible company grievance mechanisms that offer effective remedies*, and ICoCA, *Interpretative Guidance: Developing and operating fair and accessible company grievance mechanisms that offer effective remedies*. Both can be found at: <https://icoca.ch/en/guidance>.

³⁵ For more information on the survivor-centred approach, see UN Women, Virtual Knowledge Centre to End Violence against Women and Girls. At: <http://www.endvawnow.org/en/articles/652-survivor-centred-approach.html>.

³⁶ See also, IASC, *Global Standard Operating Procedures on inter-agency cooperation in community-based complaint mechanisms* (2016), p. 18. At: <https://interagencystandingcommittee.org/accountability-affected-populations-including-protection-sexual-exploitation-and-abuse/documents-51>.

- Proactively keeping the survivor informed about the status of the company's investigation and related efforts to address his or her complaint.
 - Allowing the survivor to provide input.
2. **Take into account the gravity and nature of SEA when appointing the investigative team.**³⁷
- Make sure the investigative team includes at least two investigators who have specific training in SEA investigation and a thorough understanding of the operating environment in which the alleged abuse took place.³⁸
 - Appoint investigators who can meaningfully engage with, and be trusted by, the survivor.³⁹
 - Appoint at least one investigator who is independent of the immediate reporting chain.
 - Appoint at least one manager who is responsible for overseeing the proper conduct of the investigation, taking strategic decisions, and reporting (on 'a need to know' basis) to the company's leadership.⁴⁰
3. **Design a value-led investigation** that is:⁴¹
- **Timely.** The investigation should start immediately on receipt of the complaint and be concluded promptly.
 - **Thorough.** The investigation should collect and assess information in a manner that is well-planned, accurate and exhaustive.
 - **Impartial.** The investigation should be objective and independent, free of personal bias or interest.
 - **Documented.** The investigation process, the evidence gathered, and the conclusions reached, should all be documented.
 - **Safe.** The investigation should guarantee confidentiality, identify risks to the complainant and witnesses, as well as to their families and belongings, and adopt appropriate measures to provide protection and prevent retaliation in line with the company's grievance procedure.⁴²
4. **Take appropriate disciplinary action against the perpetrator** if the complaint is substantiated.⁴³

³⁷ On appointment of the investigative team, see International Council of Voluntary Agencies, *Building Safer Organisations Guidelines: Receiving and Investigating Allegations of Abuse and Exploitation by Humanitarian Workers*, pp. 16-17. At: <https://reliefweb.int/report/world/building-safer-organisations-guidelines-receiving-and-investigating-allegations-abuse>.

³⁸ Consider external appointments if these skills are not available in the company.

³⁹ Gender and age may both be relevant. For example, where substantive differences of treatment and social perception exist between women and men, appoint investigators who meet the survivor's gender preferences. For similar reasons, the appointment of investigators may need to be age-sensitive.

⁴⁰ Including a manager reinforces the company's commitment and ensures that the case will be taken seriously. The appointee may be the Grievance Officer if he or she meets the requirements of the role.

⁴¹ See also: Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse, *Model Complaints and Investigation Procedures and Guidance Related to Sexual Abuse and Sexual Exploitation* (2004), p. 31. At: <http://www.pseataskforce.org/uploads/tools/model-complaints-and-investigation-procedures-and-guidance-related-to-sea-draft-ias-task-force-on-psea-english.pdf>.

⁴² See Section 3.2.2 of ICoCA, *Manual: Developing and operating fair and accessible company grievance mechanisms that offer effective remedies*. At: <https://icoca.ch/en/guidance>.

⁴³ See Section 5 of these Guidelines.

5. **Report all instances of sexual violence to competent authorities** as prescribed by Paragraph 38 of the Code, based on the wishes of the survivor and the assessment outlined in Section 3.1.4 of ICoCA's *Guidance on Company Grievance Mechanisms*.⁴⁴
6. **Investigate the reasons behind the occurrence of SEA** and assess whether additional risk mitigation measures need to be adopted to prevent reoccurrence.

Interview with a PSC

"In truth, much of this activity [i.e. sexual exploitation and abuse] is already either illegal or a breach of employment law – but companies fail to report issues to the police or take appropriate company disciplinary action."

⁴⁴ See ICoCA, *Manual: Developing and operating fair and accessible company grievance mechanisms that offer effective remedies*. At: <https://icoca.ch/en/guidance>.

10. Survivor assistance

Guideline. Consider providing adequate assistance to survivors of SEA to mitigate its harmful effects.

When a potential act of SEA is reported, through the company grievance mechanism or another formal or informal reporting avenue, ICoCA Member Companies should prioritise the needs of the survivor and consider providing the support and assistance necessary to mitigate the effects of the alleged abuse. As mentioned above, ICoCA Member Companies should have identified the potential needs of survivors and the services available to respond to SEA incidents during the design phase of their operations.⁴⁵ This mapping exercise will guide companies when they devise PSEA plans and strategies.

For the purpose of these Guidelines, 'assistance' is a broader concept than 'remedy'. Remedies are linked to the resolution of a complaint, whereas 'assistance' refers to any form of support that a survivor might need as a consequence of the abuse he or she has suffered. So understood, survivor assistance includes both immediate and longer-term assistance. Immediate assistance meets immediate needs after an alleged abuse and, by its nature, precedes resolution of any claim or complaint. Longer-term assistance, on the other hand, addresses the lasting consequences of SEA after an allegation has been substantiated, and may be part of the remedy offered as a resolution of the complaint.

What to do

1. **Consider providing both immediate and longer-term assistance to SEA survivors**, including:
 - **Medical assistance**, especially to treat injuries and prevent sexually-transmitted diseases.⁴⁶
 - **Psychological support**, to address effects of SEA on mental health.⁴⁷
 - **Safety assistance**, to protect survivors from retaliation or the social consequences of reporting SEA.
 - **Material assistance**.⁴⁸
 - **Legal support**, to inform survivors of their rights, advise them on the mechanisms available for obtaining remedies, and help them to access these mechanisms.
2. **Design assistance strategies to meet the survivor's specific needs, wishes and best interests**, taking into account his or her personal situation, as well as age, gender, ethnicity and culture.
3. **Respect the survivor's rights** to be informed, treated with dignity, and involved at every stage of the assistance provision process.
4. **Assess whether the assistance provided was appropriate and effective**, in order to improve future support.

⁴⁵ See Section 7 of these Guidelines.

⁴⁶ Medical assistance must be provided promptly after sexual abuse, because most treatments are ineffective if they are not administered within 72 hours.

⁴⁷ These might include: depression, anxiety, post-traumatic stress disorder, fear, or feelings of guilt or shame.

⁴⁸ This may include emergency financial support, shelter, clothing, or food.

11. Conclusion

The risk of SEA is an important concern for clients contracting private security services as well as for security providers themselves and entities mandated to oversee compliance with standards of conduct, such as the International Code of Conduct Association.

When they join ICoCA, Member Companies undertake to comply with the requirements of the Code and related procedures for assessing performance and compliance. In cases of non-compliance, these procedures foresee the potential referral of companies to the Board of Directors and initiation of suspension proceedings as a last resort.⁴⁹

These Guidelines provide a framework for the effective implementation of the obligations that derive from Paragraph 38 of the International Code of Conduct. They are intended to be a 'living document' and may be updated or expanded in the future. The Association welcomes feedback from Member Companies or other stakeholders that might improve efforts to prevent and address SEA. In the meantime, the ICoCA will continue to engage with Member Companies and, when needs arise, will offer companies support or consultation to help them improve their performance, including on PSEA.⁵⁰

⁴⁹ See Sections VII and VIII of ICoCA, *Procedures for Reporting, Monitoring and Assessing Performance and Compliance under Article 12*. At: <https://icoca.ch/sites/default/files/uploads/ICoCA-Procedures-Article-12-Monitoring.pdf>.

⁵⁰ *Ibid.*, Section IV, Paragraph A.

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Annex I – Checklist

POLICIES AND PROCEDURES

- A PSEA-specific policy has been developed or PSEA has been embedded in existing policies and procedures.
- A work plan to implement the PSEA policy has been developed.
- Implementation of the work plan is constantly monitored.
- The PSEA policy is regularly reviewed.

CODES OF CONDUCT

- The company code of conduct explicitly prohibits SEA.
- The company code of conduct sets out standards of conduct and employees' responsibilities with regard to PSEA.
- The company code of conduct is translated into a language or languages that personnel understand.

RECRUITMENT, PERFORMANCE APPRAISAL AND DISCIPLINE

- A PSEA focus is integrated in the recruitment process.
- PSEA is embedded in company performance appraisal procedures.
- Disciplinary procedures for SEA abuses are established and communicated to personnel.

TRAINING AND RAISING AWARENESS

- All personnel receive initial and recurrent PSEA training.
- Managers receive specific training on their PSEA responsibilities.
- The content of training is adapted to the operating environment.
- When it develops and delivers PSEA training, the company considers drawing on support from PSEA experts and local civil society organisations.
- Where possible, PSEA training sessions are opened and closed by a senior manager.
- The company uses a range of tools to make staff aware of PSEA.

OPERATION DESIGN AND RISK ASSESSMENT

- The company runs SEA risk assessments before each operation.
- If necessary, the company adopts additional risk mitigation measures to prevent SEA.
- The company considers drawing on support from local civil society organisations to help identify risks and assess the degree to which its risk mitigation measures are appropriate and effective.

AGREEMENTS WITH PARTNERS AND SUBCONTRACTORS

- The company assesses the ability of partners or subcontractors to comply with PSEA standards of conduct before it implements operations with them.
- PSEA clauses are included in agreements with partners and subcontractors.
- The company constantly monitors implementation of PSEA clauses contained in contracts.

SEA COMPLAINTS AND INVESTIGATION

- The company adopts a survivor-centred approach when it receives and investigates SEA complaints.
- The company takes the gravity and peculiarities of SEA into account when it appoints an investigating team.
- The investigation process is driven by values: investigations are prompt, thorough, impartial, documented, and safe.
- Appropriate disciplinary action is taken against SEA perpetrators.
- All instances of sexual violence are reported to the competent authorities, based on the wishes of the survivor and an assessment in line with Section 3.1.4 of the ICoCA Guidance on Company Grievance Mechanisms.
- The reasons behind SEA incidents are investigated. Investigations assess whether additional risk mitigation measures need to be adopted to prevent reoccurrence.

SURVIVOR ASSISTANCE

- The company considers providing immediate assistance to survivors before their allegations of SEA have been substantiated.
- The company considers providing longer term assistance to survivors whose SEA claims have been substantiated.
- Assistance strategies are designed to meet the individual's needs, wishes and best interests.
- The company respects the rights of SEA survivors to be informed, treated with dignity, and involved at every stage of the assistance provision process.
- The company assesses whether the assistance provided has been appropriate and effective, in order to improve assistance in the future.

Annex II – Useful resources

Websites

- CHS Alliance: Protection from Sexual Exploitation and Abuse (PSEA). <https://www.chsalliance.org/what-we-do/psea>.
- European Interagency Security Forum (EISF): Managing Sexual Violence Against Aid Workers. <https://www.eisf.eu/theme/managing-sexual-violence>.
- InterAction: Building NGO Capacity to Address Sexual Exploitation and Abuse. <https://www.interaction.org/work/sea>.
- Inter-Agency Standing Committee (IASC): Task Force on Protection from Sexual Exploitation and Abuse (PSEA) by our own staff. <http://www.pseataaskforce.org/en>.
- IASC: Task Team on Accountability to Affected Populations and Protection from Sexual Exploitation and Abuse (AAP/PSEA). <https://interagencystandingcommittee.org/accountability-affected-populations-including-protection-sexual-exploitation-and-abuse>.
- United Nations: Preventing Sexual Exploitation and Abuse. <https://www.un.org/preventing-sexual-exploitation-and-abuse>.
- United Nations Peacekeeping: Standards of Conduct. <https://peacekeeping.un.org/en/standards-of-conduct>.

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IASC, *Preventing Transgressors Moving Through the Humanitarian System* (Revision 1, May 2018). At: https://interagencystandingcommittee.org/system/files/session_1_psea-sha-preventing_transgressors_moving_through_the_sector-31_may_2018_principals_meeting.pdf.

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International Council of Voluntary Agencies, *Building Safer Organisations Guidelines: Receiving and Investigating Allegations of Abuse and Exploitation by Humanitarian Workers*. At: <https://reliefweb.int/report/world/building-safer-organisations-guidelines-receiving-and-investigating-allegations-abuse>.

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