

Interactive Dialogue, 51th session, Human Rights Council

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Chair-Rapporteur

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

20 September 2022

**Mr President,
Excellencies,
Distinguished representatives,**

I am honoured to address the Human Rights Council as the Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the right of peoples to self-determination.

Over the past year, the Working Group has continued to actively implement its mandate. We have resumed in-person sessions and have intensified our engagement with Member States, international and non-governmental organizations and other relevant interlocutors during our sessions and in the inter-sessional period. We have convened two expert consultations on the topics of our thematic reports to the Council and to the General Assembly, and contributed to workshops, seminars, and conferences. I thank all those who met with us and who contributed to our work.

The Working Group has also received invitations to undertake country visits in the upcoming year, and we would like to thank the governments of Armenia, Cote D'Ivoire, Greece, Nigeria and Poland for their invites.

We also continued to receive and take action on allegations of human rights and humanitarian law violations arising from the activities of mercenaries, mercenary-related actors, and private military and security companies.

Today, I am pleased to present our annual thematic report and to engage with the Council during this interactive dialogue.

Mr President,

This year, the thematic report of the Working Group focuses on the timely issue of lack of access to justice, accountability, and remedies for victims of mercenaries, mercenary-related actors and private military and security companies.

The report focuses on the violations of human rights and humanitarian law perpetrated by mercenaries, mercenary related actors and private military and security companies, and reflects on the differentiated impacts of these actions on victims. It explores the challenges encountered by victims in accessing justice and adopts a comprehensive approach to accountability by elaborating the main elements of access to justice and remedy.

Mr President,

In previous years and through our various interventions, the Working Group has observed with concern the increasing use of mercenaries, mercenary-related actors, and private military and security companies worldwide in conflict, post-conflict and peacetime contexts. The Working Group has previously noted with concern the ways in which third-party States not involved in armed conflicts are increasingly inserting themselves into conflicts by recruiting, training, financing and deploying mercenaries in so-called proxy wars. This report again warns that recruitment, financing, use and transfer of these actors prolongs conflicts, amplifies levels of violence, increases substantially the risk of violations of human rights and international humanitarian law and undermines peace efforts.

Similarly, we note how private military and security companies are increasingly occupying new public spaces, and perpetually repositioning themselves to appeal to new markets to take advantage of economic opportunities. In some cases, they offer services that have long been considered inherent to States, and which may increase the likelihood of violations of human rights and international humanitarian law. Contemporary activities of such private companies cover a spectrum of operational contexts that have been examined and detailed by the Working Group, including situations of detention and deprivation of liberty, extractive industries, migration, the cybersphere and maritime security.

The above-mentioned trends raise serious concerns about the negative impacts of such activities, especially for certain groups of victims. As mercenaries, mercenary-related actors, and private military and security companies continue transitioning into new spaces, the profile of individuals affected by their activities continues to expand.

Multiple and intersecting forms of discrimination may shape how individuals experience violations committed by such actors. Individuals may also be in a situation of aggravated vulnerability owing to underlying grounds of marginalization.

Victims, particularly women, children, migrants and refugees, people with disabilities, LGBTI+ persons, older persons, minorities, indigenous peoples, human rights defenders, and journalists, among others, may experience differentiated and disproportionate human rights impacts. This may result in varied expectations

regarding remedies and in different forms of obstacles and barriers in seeking access to justice and accountability.

Another area of concern examined in in this report, is the continuing use of predatory recruitment. This is an exploitative phenomenon whereby individuals, particularly men from conflict affected environments, are recruited as mercenaries in a way that takes advantage of their socioeconomic status, and which may involve coercive recruitment under duress and threats. These practices raise concerns about forced recruitment and trafficking of people for the purpose of providing mercenary-related services and activities.

Mr President,

The proliferation of mercenaries, mercenary-related actors, and private military and security companies in multiple contexts is giving rise to increasing violations of human rights and international humanitarian law without concomitant accountability, including access to justice and effective remedies for victims.

Accountability is rare and is exacerbated by multiple obstacles and challenges, particularly for victims from vulnerable groups, including:

- (a) the secrecy and opacity surrounding the activities of mercenaries, mercenary-related actors, and private military and security companies, as well as lack of transparency and lack of access to information about their activities.
- (b) the complex business and corporate structures that can create further opacity and issues related to jurisdiction, in particular.
- (c) National and international regulatory gaps, including limited ratification of the **International Convention against the Recruitment, Use, Financing and Training of Mercenaries**. While in relation to private military and security companies national laws may be absent or contain inadequate provisions on licensing; registration; vetting of personnel, or grant immunity.

Furthermore, increased levels of risk and fear in reporting human rights abuses, where victims and civil society organizations may face persecution and reprisals present a major obstacle to accountability, particularly in the context of armed conflicts.

Given this bleak outlook, the Working Group urges an intersectional victim-centered approach to access justice and remedy. This demands a more holistic outlook, addressing regulatory gaps in order to prevent future violations and to create remedies that truly meet the needs of victims.

A key step in achieving justice for victims is ensuring effective accountability for the violations perpetrated by mercenaries and mercenary-related actors. States must meet

their legal obligations to investigate, prosecute and ensure the non-applicability of statutes of limitation or immunities for such crimes.

The Working Group further calls upon States to adopt an international legally binding instrument on the activities of private military and security companies, as well as consistent regulation at the national level, including standards on adequate prevention of human rights violations, protection of victims, accountability and effective remedies.

Furthermore, remedy for victims is contingent on the existence of effective and equitable delivery of public services; including: criminal and civil justice; the accessibility of avenues through which to pursue a case against a corporate entity or an individual; legal aid and the required immediate and long-term assistance; support to victims, including the provision of information and assistance to enable them to access their legal rights.

Finally, the Working Group insists on the importance of maintaining the centrality of rights holders to the entire remedy process by ensuring that all remedial mechanisms are responsive to the diverse experiences and expectations of victims especially marginalized or vulnerable groups, and that reparations for victims are accessible, affordable, timely, full, and effective.

**Mr President,
Excellencies,
Distinguished representatives ,**

Thank you for your attention. I look forward to engaging in a constructive dialogue.
