

**Совет по правам человека**

Тридцать девятая сессия

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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие****Доклад Рабочей группы по вопросу об использовании
наемников как средстве нарушения прав человека
и противодействия осуществлению права народов
на самоопределение*****Миссия в Гану (8–15 декабря 2017 года)***Резюме*

Рабочая группа по вопросу об использовании наемников как средстве нарушения прав человека и противодействия осуществлению права народов на самоопределение посетила Гану по приглашению правительства этой страны с 8 по 15 декабря 2017 года. В соответствии со своим мандатом Рабочая группа сосредоточила внимание на воздействии на ситуацию в области прав человека в этой стране наемников и связанной с наемниками деятельности, а также на вопросах регулирования деятельности частных военных и охранных компаний. Члены Рабочей группы встретились с властями Ганы и с представителями организаций гражданского общества и частных охранных предприятий Ганы. Рабочая группа пришла к выводу, что на момент посещения проблема наемничества и иностранных боевиков не носит критически важный характер. Вместе с тем она отметила, что, если некоторые дестабилизирующие факторы не будут эффективно устранены, они могут потенциально угрожать стабильности страны. Рабочая группа выражает озабоченность по поводу огромного числа действующих в стране частных охранных предприятий, распространения групп самообороны и вооруженных лиц и незаконной добычи полезных ископаемых («галамси»), в которой также участвуют иностранцы. Кроме того, она обращает внимание на нынешние вызовы стабильности в Гане, такие как трансграничная деятельность и распространение незаконного оружия. Она подчеркивает некоторые примеры передовой практики, лежащие в основе мира и стабильности в Гане, включая активное гражданское общество и свободные средства массовой информации, независимость судебной системы и практику, касающуюся отрасли частных охранных предприятий.

* Настоящий доклад был представлен позже установленного срока в связи с необходимостью включения в него самой последней информации.



Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination on its mission to Ghana (8 to 15 December 2017)**

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** Circulated in the language of submission only.

I. Introduction

1. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination conducted an official visit to Ghana at the invitation of the Government, from 8 to 15 December 2017. The Working Group was represented by two of its members, Patricia Arias and Anton Katz. They were accompanied by staff of the Office of the United Nations High Commissioner for Human Rights and United Nations interpreters.

2. Pursuant to Human Rights Council resolution 36/3 and General Assembly resolution 72/158, the Working Group has a mandate to study the impact of the activities of mercenaries and private military and security companies on human rights, particularly the right of peoples to self-determination. In recent years, the Working Group has devoted much attention to the impact of mercenarism, foreign fighters and private military and security companies on human rights in various contexts, including within the extractive industries.

3. The Working Group wishes to thank the Government of Ghana for its invitation and the staff of the United Nations Development Programme in Accra who provided support to the visit.

4. During the visit, the Working Group held meetings in Accra and Takoradi and met with State authorities, including the Minister for Defence, the Minister of the Interior, the Deputy Minister for Foreign Affairs, and representatives of the Ministry of Justice. The Working Group also met with the Chief Justice of the Supreme Court and her Chief of Staff. In Takoradi, it met with the Regional Commander of the police force of the Western Region, as well as with government focal points overseeing the licensing and regulation of private security companies. Meetings were also held with various staff members and experts from the Kofi Annan International Peacekeeping Training Centre, and with representatives of civil society and non-governmental organizations. The delegation also met with individuals from the private sector, including from the extractive industry and representatives of private security companies in Accra and Takoradi. In Accra, the delegation held meetings with various representatives of the United Nations. The Working Group extends its appreciation to all the interlocutors it was able to meet during its visit.

5. In the present report, the Working Group uses the term “mercenary” as it is defined in article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.¹

6. In its research on mercenary-related activities, the Working Group has devoted its efforts in recent years to studying the phenomenon of foreign fighters and its linkage to mercenarism. Although there is no internationally agreed legal definition of a foreign fighter, the term is generally understood to refer to individuals who leave their country of origin or habitual residence and become involved in violence as part of an insurgency or non-State armed group in an armed conflict. Foreign fighters are motivated by a range of factors, notably ideology, but can also include monetary or financial gains.

7. The right to self-determination is recognized in Article 1 (2) of the Charter of the United Nations as a fundamental principle, and necessary for the achievement of universal peace. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which Ghana has ratified, also recognize that all peoples have the right to self-determination and that, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. The African Charter on Human and Peoples’ Rights refers to the right

¹ Namely, to describe any person who (a) is especially recruited locally or abroad in order to fight in an armed conflict; (b) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; (c) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (d) is not a member of the armed forces of a party to the conflict; and (e) has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

to self-determination as “unquestionable and inalienable”. The Working Group has consistently recognized that mercenarism and mercenary-related activities pose grave threats to the right of peoples to self-determination and to the peace and security of developing countries, particularly in Africa and in small States.

8. In the context of the mandate of the Working Group, a private military and/or security company is understood to be a corporate entity that provides, on a compensatory basis, military and/or security services by physical persons and/or legal entities. Military services include specialized services relating to military action, including strategic planning, intelligence, investigation, land, sea or air reconnaissance, flight operations of any type, manned or unmanned, satellite surveillance, any kind of knowledge transfer with military applications, material and technical support to the armed forces, and other related activities. Security services include armed guarding or protection of buildings, installations, property and people, and any kind of knowledge transfer with security and policing.

II. Context of the visit

9. The Working Group undertook its visit to Ghana as part of its mandated activities to conduct in situ visits to countries to better understand the situation regarding mercenary, mercenary-related activities and private military and security companies. The visit to Ghana was an opportunity for the Working Group to better understand how the country had remained stable in a region roiled by armed conflicts in neighbouring countries. In this regard, Ghana has often been hailed as an “oasis of peace” and is quite exemplary in the way it has withstood the destabilizing armed conflicts that have affected many neighbouring countries.

10. The Working Group also undertook the visit to further understand the situation of private military and security companies in the country. From 2013 to 2017, the Working Group undertook a global study on the national legislation for private military and security companies, covering 60 States from all five regions of the United Nations. The first regional study, undertaken in 2013, covered Anglophone Africa, which included a brief review of Ghana. The visit thus provided an opportunity to clarify its findings of research on Ghana. Through the visit, the Working Group aimed to better understand the human rights issues revolving around mercenary-related activities and private military and security companies in the country and how the Ghanaian authorities could better address them.

III. Overview

11. Understanding the security dimension of any country requires a good understanding of its political history. Throughout its visits, particularly within countries in the African continent, where mercenary activities had been conducted, the Working Group has often observed a close link between the political development of a country, post-independence and events that have affected the present day stability of a country. Ghana became independent from British rule in 1957, under the leadership of Kwame Nkrumah. The country was subsequently led by a series of military and civilian Governments.

12. Although some elections in Ghana have been marred by episodes of violence, they have not reached the severe levels witnessed in other African countries. Political transitions since 1992 have mostly been stable, and the country has been widely hailed as a strong democracy with functioning key institutions, including a judiciary that is seen as independent. The interlocutors with whom the Working Group met pointed out that, although there were many ethnic and tribal groups in the country, intermarriage among different groups and a deep-rooted culture of tolerance and acceptance had contributed significantly to the peace that Ghana had enjoyed since independence, unlike in some neighbouring countries. Ghana also has one of the fastest growing economies in Africa. Alongside its reputed political stability, Ghana continues to attract foreign investments and interests, and

economic growth is projected to continue.² Ghana is also endowed with rich natural resources, including oil, gold and cocoa. Its extractive industry has also attracted significant and lucrative foreign investments.

13. The Working Group was informed that there was space for robust civil society work on human rights issues in the country. Human rights defenders stated that they generally did not fear deadly reprisals. The Working Group was also informed, that government representatives and civil society organizations collaborated for the first time in the preparation of the national report of Ghana for the universal periodic review, an unprecedented though welcomed initiative.

14. In addition, the Working Group observed that the media are generally able to freely and independently report on human rights issues without interference from the Government.

IV. Legal framework

15. Ghana has ratified all of the core international human rights treaties, with the exception of the International Convention for the Protection of All Persons from Enforced Disappearance. It has also ratified the Rome Statute of the International Criminal Court, thus undertaking to uphold international obligations in respect of international crimes.

16. Ghana has yet to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. It has, however, ratified the African Charter on Human and Peoples' Rights and the African Union Convention for the Elimination of Mercenarism in Africa. Ghana is also a State party to the Protocol Additional to the Geneva Conventions of 12 August 1949, related to the protection of victims of international armed conflicts (Additional Protocol I), which defines mercenaries and provides that they are not to be granted the right to be a combatant or a prisoner of war. There are no national laws in Ghana covering mercenarism.

17. The Constitution of Ghana guarantees the human rights of all individuals found within the territorial boundaries of Ghana. The Commission on Human Rights and Administrative Justice has a broad mandate to investigate complaints regarding human rights violations.

18. The private security industry in Ghana, previously regulated by the Police Act No. 350 (the Police Act) of 1970, is now governed by the Police Service (Private Security Organizations) Regulations (No. 1571) of 1992, and Police Services (Private Security Organization) (Amendment Regulations, 1994 (LI 1579)). Private security companies are licensed by the Ministry of the Interior under these regulatory frameworks.

19. According to the provisions of the Police Act, the Minister to whom responsibility for the police service is assigned by the Prime Minister (the Minister) may make regulations by legislation for the purposes of controlling the establishment and operations of any private security organization; requiring the registration of all private security organizations; regulating the conditions under which a private security organization may employ any person; regulating the use of uniforms by any private security organization; and prescribing fees and forms for any of the previous purposes.

V. Mercenarism and mercenary-related activities

20. The Working Group was informed that mercenarism and foreign fighters were not significant problems in Ghana.

21. Several interlocutors of the Working Group highlighted the potential threat posed by the porous borders of certain neighbouring countries. The mass movement of persons and goods, including armed foreign actors, between borders in the region presented security challenges that threatened not only Ghana but the region as a whole. Ghana, as a member of the Economic Community of West African States (ECOWAS) and a party to its protocol on

² Ekow Dontoh, "Star of Africa in 2018 Lenders' Economic Forecasts Is Ghana", 6 February 2018, Bloomberg.

freedom of movement, can be vulnerable to the threats posed by mercenarism and mercenary-related activities given its proximity to countries that may be affected by armed conflict or violence involving mercenaries.

22. During its visit to Côte d'Ivoire in 2014, the Working Group received allegations concerning mercenaries who had been recruited for the conflicts of 2002 and 2010 in Côte d'Ivoire and had fled to Ghana. The said mercenaries were reportedly taking refuge in Ghana while reportedly orchestrating activities that were causing instability in their home country.

23. During its visit to Ghana, the Working Group was informed that the above-mentioned mercenaries had been expelled from the country and that their activities or mercenarism in general currently posed no significant threat. The Working Group nonetheless cautioned the Government that mercenaries and foreign armed actors could still enter Ghana through its porous borders and cause instability. The situation should therefore be monitored closely.

24. During its visit, the Working Group received information according to which alleged mercenaries had been brought in to train security personnel associated with the New Patriotic Party; the Working Group was, however, unable to obtain enough information to confirm whether these persons were indeed mercenaries. It appears that, in the past, opposing political parties would often make allegations of mercenary activity, including during the 2012 election. The delegation was not able to obtain any further information to corroborate such allegations.

25. With regard to foreign fighters, the Working Group was informed that, at the time of its visit, there were three cases of Ghanaian citizens who had travelled to join groups such as Islamic State in Iraq and the Levant (ISIL), but that cases of this type were not generally common. Violent extremism was not deemed to have reached a level constituting a significant threat to Ghana. Several interlocutors did, however, express their concern that with the widespread availability of the Internet, could make certain individuals vulnerable to radicalization leading potentially to violent extremism.

26. The Working Group noted the high rate of youth unemployment, and how this could also put young people at risk of radicalization and violent extremism. In neighbouring countries, the threat of armed groups such as Boko Haram and ISIL is serious; if these issues are not addressed effectively, they could pose a threat to stability in Ghana. The Working Group met with several civil society representatives who were active in countering radicalization and extremism, working directly with the local community, youth groups and religious communities to address the root causes of violent extremism with the aim of mitigating factors leading to terrorist recruitment, and of preventing vulnerable individuals from joining groups with terrorist ideals.

27. The Working Group commends these civil society organizations and their work. Programmes aimed at young people are critical, given that they constitute a group that is vulnerable and often targeted for recruitment. A study conducted by the West Africa Centre for Counter-Extremism, a local organization, indicated that ethnic violence could become the largest cause of instability in Ghana, and that such violence, coupled with land conflicts, could harden youths and may cause them to become particularly susceptible to terrorist recruitment. During its mission, the Working Group was informed of ethnic clashes and other conflicts relating to land issues in northern Ghana. Although Ghana is largely peaceful, such conflicts could have a destabilizing effect on the rest of the country, as well as on its youth population.

28. Ghana is a member of ECOWAS and the African Union, two important forums with which it can engage in discussions on initiatives to safeguard against mercenarism and mercenary-related activities. Combating mercenarism and trans-border crimes requires close collaboration in the form of regional initiatives aimed at improving regional and national stability. The ECOWAS Protocol on Free Movement and Trans-border Security in West Africa provides a platform for discussions on strengthening cooperation to address armed threats. Strengthening border control and oversight of cross-border activities and employing a strategy to combat and prevent mercenarism, foreign fighters and armed threats would be beneficial to Ghana and other States in the region.

VI. Regulation of private security companies

29. The Working Group was informed that, while private security companies operated in Ghana, private military companies did not. As stated previously, Ghana has a regulatory framework governing private security organizations, through the Police Service (Private Security Organizations) Regulations 1992 (No. 1571) and Police Services (Private Security Organization) (Amendment Regulations, 1994 (LI 1579)), which are under the competency of the Ministry of the Interior.

30. The Working Group notes that the Police Act lacks detail with regard to the management of the private security sector. Although regulations do exist, the need to find a more comprehensive and adequate legislative instrument to consolidate the security of Ghana cannot be over-emphasized. Of particular concern is the fact that national legislation is silent on the use of firearms by private security service providers, and also with regard to what actually constitutes a private security service or private security provider. Furthermore, the only definition given by the Police Act is that of a “private security organization”, which includes any organization that undertakes private investigations into facts or the character of any person or that performs watching, guarding, patrolling or carriage services for the purpose of providing protection against crime, but does not include the Police Service, the Prisons Service or the armed forces of Ghana. In the event of any doubt regarding whether an organization fits such a definition, the Police Act provides that the Minister alone has the mandate to make a determination. The current law on private security companies is also silent on extraterritorial jurisdiction, which is important, as some companies may have transnational operations.

VII. Proliferation of private security companies

31. The private security sector is a global multibillion-dollar industry that continues to expand. One of the concerns regarding the industry is that it is profit-focused and, for that very reason, less concerned about respecting or protecting the human rights of individuals that it engages or affects. The growth in the industry has led private security and military companies to operate transnationally throughout the world, and to thrive in situations where there is conflict or violence and where their services are in need. Often, the increase in the operations of private military and security companies is connected also to the demand for greater security, and where national law enforcement agencies do not have the capacity to meet such a demand.

32. In Ghana, urbanization and increasing incidences of criminal activities and violence have contributed to the growth of the private security industry. The Working Group was informed by the Ghanaian authorities that there were around 400 legally registered private security companies in the country, employing some 450,000 people (compared with 33,000 members of the police force). Given the lack of official records on companies operating illegally in Ghana, the real number of operations carried out by them is probably much higher. The Working Group was indeed informed that more than 1,900 companies operate illegally in Ghana, which certainly indicates the serious need for effective regulation of the sector, to prevent it from undermining national security and to ensure that private security personnel do not threaten the human rights of the local population.

33. The proliferation of companies in Ghana has been driven by a number of factors, but mainly by the influx of global capital into sectors, such as real estate (for example, gated communities, mining, marine and aviation, shopping malls and hotels).³ Unlike in urban areas public law enforcement agencies are in greater number, in rural districts people are forced to resort to private security companies for their security needs.

³ Owusu et al., “An assessment of households’ perceptions of private security companies and crime in Ghana”, *Crime Science* (2016), 5: 5.

34. Private security companies in Ghana mainly provide a range of services, such as security and patrolling of private residential and public and private institutional buildings. They are also used by mining corporations and extractive industry companies. Owners of private security companies must be Ghanaian, or be in partnership with a Ghanaian in operating the firm. No real data exist on the number of Ghanaians working for private security companies overseas; nonetheless some prominent multinational private security companies operate in Ghana, including G4S, which operates in numerous other countries and throughout Africa. The majority of operations in Ghana are, however, on a smaller scale and are locally owned.

35. To assist in its oversight of the industry, the Ministry of the Interior drew up a comprehensive list of registered private security organizations. Since 2012, the Ministry of the Interior has monitored existing organizations in order to ensure that their licences are renewed and they continue to operate in Ghana.⁴

36. The Working Group commends the establishment of a unit with the Police Service that is specifically focused on private security companies, particularly aspects of its licensing, registration and oversight. The department comprises 10 regional liaison officers in Ghana who exchange information and oversee the issue of private security company operations, and whose objective includes reining in illegal operators throughout the country. One of the requirements issued by the Government in 2017 was for personnel of private security companies to wear a uniform that would be clearly distinguishable from that of public law enforcement agents.

VIII. Regulation and oversight

37. The Working Group observed that, although some progress had been made to assist in regulating the private security sector, there is still a serious need to establish an independent oversight body or mechanism to effectively oversee the industry and to ensure that its operations are conducted in accordance to law, and that they are not engaged in criminal activities or human rights abuses. It is furthermore clear that, in Ghana, while companies may be registered and licensed, monitoring of company activities and performance is still weak.

38. During its visit, the Working Group noted the lack of effective systems to oversee private security companies; it therefore encourages the Government to address this issue as a matter of priority. There is also a need to systematically vet company personnel and to ensure they have proper training, including on human rights. The delegation was informed that, although there are specific activities that private security personnel are hired to perform, challenges arise, given that many workers perform duties that go beyond their functions, even illegal activities in some cases. One interlocutor informed the Working Group that certain private security personnel had engaged in thefts and harassed those whom they were hired to protect, including by sexually assaulting them. Another one informed the Working Group that, in a mall, a private security agent had stripped a customer, not knowing that such an act was not authorized. Private security agents had also reportedly been hired to operate in remote locations, such as on plantations, and so it is difficult to ensure that their conduct was compliant with their job requirements. Private security personnel also have the power to make a citizen's arrest, but are not allowed to carry arms. Some carry tasers, batons and handcuffs. Tasers, which are used as a last resort, are most commonly used in mining and industrial operations; given that the actual number of private security companies operate in the country (both legal and illegal), any illegal activity conducted by employees of such companies are virtually impossible to track. There are thus real concerns about, for example, the disproportionate use of force by company personnel, given their lack of training on these issues.

⁴ Ibid.

39. In its discussions with private security operators, the delegation of the Working Group was informed that many private security employees had only basic education qualifications, some having never finished high school. According to one private security operator, retaining personnel was a challenge owing to the low remuneration offered. Private security companies therefore have to cope with high overheads and a level of uncertainty, leading operators to run significant financial risks.

40. The number of employees of private security companies illegally carrying weapons, is also not known. Many operations may be conducted outside those being monitored by the authorities, who are aware of this serious concern.

41. The lack of data or of a systemized mechanism to track private security operations and their personnel should be addressed. The Working Group notes that out of all the private security companies registered, only two have signed up to the International Code of Conduct for Private Security Service Providers. Partly foreign-owned private security companies are also common in Ghana; the Working Group encourages the vetting of these companies to ensure that they are in good standing and do not involve individuals who have either criminal backgrounds or have committed human rights abuses.

42. The Working Group, in its discussions with various private security companies, was informed that the training of security personnel, which was the responsibility of private security operators on themselves, was haphazard and rarely consistent. Training modules, for example, were reportedly selected by the operator, who was not required to follow any prescribed curricula or good practices. Training also entails financial costs, so operators are reluctant to make significant investments in a sector characterized by high staff turnover. As a result, some training programmes are more comprehensive than others, while others offer the bare minimum without even taking into account international human rights standards. The Working Group notes that the Kofi Annan International Peacekeeping Training Centre conducts programmes for members of the military and the police, and civilians involved in peace operations. Some programmes include training on human rights issues or countering violent extremism, while various United Nations courses are also offered. Similar forms of training for private security personnel would be beneficial, particularly given the large numbers of employees with only basic education and who are not fully aware of their obligations while on duty.

IX. Good practices

A. Association of Private Security Organizations

43. The delegation met with members of the Association of Private Security Organizations, the primary focus on which is the regulation of the private security industry in Ghana, to ensure that members worked effectively with all stakeholders. The Association, formed in 1998 with around 25 registered companies, currently has around 350 members (some 175 members pay a subscription to the association). Members of the Association are recognized by the Ministry of the Interior as having fulfilled the requirement to operate legally in the country. The Association promotes the standardization of training within the private security industry, which it also represents.⁵ Membership of the Association is voluntary. Given that it has no role in the licensing companies or the renewal of permits, relatively few companies have joined it. The Working Group nonetheless sees the Association as a positive initiative that addresses the concerns of the industry, particularly with regard to illegal operations by private security companies, and the need to strengthen oversight and monitoring of such companies.

⁵ See Owusu et al., “An assessment of households’ perceptions”.

B. International Code of Conduct for Private Security Service Providers and the Montreux Document

44. The International Code of Conduct for Private Security Service Providers and the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict are voluntary initiatives that have improved standards across the private military and private security industries. States and companies are encouraged to join these initiatives, which encourage good practices and provide support for regulating private military and security companies. The International Code of Conduct for Private Security Service Providers' Association is a multi-stakeholder initiative that aims to promote, govern and oversee the implementation of the International Code of Conduct, and promotes the responsible provision of security services and respect for human rights and national and international law. The Code of Conduct comprises standards and principles for company personnel based on international human rights and humanitarian law standards, including rules on the use of force; a second set of principles concerns the selection, vetting and proper training of personnel.⁶ States, civil society and companies may join the Association. Some States (such as Switzerland) require adherence to the Code of Conduct or membership in the Association as prerequisite criteria for contracting or procurement policies.

45. In Ghana, Yutees Services Limited and LandMark Security Limited have taken the positive step of adhering to the Code of Conduct, and the Working Group commends them for it. These two companies in fact provide security services for the Embassy of Switzerland in Ghana, an advantage they have over other companies. Their membership also indicates that they are willing to abide by positive standards and practices in the industry. The Working Group notes, however, that many companies are likely to find the prospect of membership challenging, as assuring the requirements for it often incur onerous financial costs. Membership nonetheless attests to a company's standards and reliability, a considerable advantage over companies that are not members.

46. The Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict provides a set of good practices for operations by private military and security companies during armed conflict. States sign the Montreux Document to reiterate their willingness to adhere to their international legal obligations within the industry. Ghana has not yet signed either the International Code of Conduct or the Montreux Document, but may wish to consider the benefits of doing so in the light of the growth in the private security industry in the country.

C. Voluntary Principles on Security and Human Rights

47. Ghana is one of the few States in Africa to have signed the Voluntary Principles on Security and Human Rights, which encourage extractive industries to operate within a framework that respects human rights. Many companies around the world have implemented the Voluntary Principles.

48. States signatories to the Voluntary Principles initiative are better able to align their corporate policies and procedures with internationally recognized human rights principles in the provision of security for their operations. In so doing, companies inform employees, contractors, shareholders and consumers their commitment to the Principles by sharing best practices and lessons learned with one another, and by collaborating on difficult issues. Member organizations engage with companies and Governments to promote adherence to and implementation of the Voluntary Principles through the development of strong corporate policies, practices and procedures. Affected populations are of paramount concern to the non-governmental organizations that are best placed to foster dialogue and collaboration between multiple stakeholders — including, most importantly, local communities — to ensure the successful implementation of the Voluntary Principles, from the site level to the national one.

⁶ See www.icoca.ch.

49. Various civil society organizations (such as Fund for Peace in partnership with West Africa Network for Peacebuilding) have also supported the implementation of the Voluntary Principles on Security and Human Rights within Ghana, with programmes that support the formation and roll-out of the national implementation plan, and build the capacity of an informed local civil society, particularly on critical human rights issues that affect both men and women, helping to develop a sustainable multi-stakeholder forum that can collectively create the conditions necessary for effective implementation of the Voluntary Principles.

50. In five regions of Ghana particularly affected by hotspots of tension or violence between communities and the extractive industry, civil society programmes have been developed to establish local dialogue platforms: the Upper East region, hosting both industrial mining and small-scale artisanal mining; the Brong Ahafo and Ashanti regions, home to large-scale industrial mines; the Western region, featuring both mining and oil and gas operations; and the Volta region, where there is salt mining and oil/gas in the exploration stage. Ghana has a long history of gold mining, and since the discovery of the Jubilee field in 2010, its oil and gas sector has rapidly expanded as well. Protests and acts of communal violence have also increased, exacerbated by oil/gas or mining operations and the deployment of security forces, which has entailed also misconduct by private security guards and a rise in alleged abuses by police and armed forces personnel.

51. Programmes run by civil society bodies focus on issues facing the private security sector by bringing together local actors with policymakers and practitioners to form a national dialogue platform, involving the oil, gas and mining sectors, local communities, non-governmental organizations, local government ministries, foreign Governments and private security providers. One of the main themes to emerge at the three national forums held to date were the issues raised by the private security sector. Discussions highlighted the inconsistent levels of quality among local security providers, the majority of which did not meet international standards; many large extractive companies had limited options when tendering to local providers, which rarely met their procurement standards in, for example, security and human rights. A lack of proper oversight, compounded by inadequate training for private security officers (particularly on principles such as use of force) could increase the risk of human rights abuses.

52. Ghanaian private security providers are not authorized to carry firearms. Although this reduces the risk of escalation of force by private security personnel, it does mean that public security forces are often required to fill this gap. Reportedly, police and/or military units are deployed to project operations, for example, to protect gold shipments. Such security arrangements can generate tensions with local communities; furthermore, in the Working Group's experience, public security personnel are often more likely to be implicated in human rights abuses. One of the positive case studies observed was in the Brong Ahafo region, where a private security company employs and trains local community members as security guards. They are not provided with any weapons or protective equipment, only a radio. Any potential issues are escalated to security management, while the high degree of training of guards in mediation and community engagement allows potential community or labour issues to be de-escalated through dialogue. The risk of violence and of human rights abuses is thus reduced in the mining concession area.

53. Developing solutions through multi-stakeholder collaboration — involving communities, non-governmental organizations, government ministries and the private security sector — has been crucial in highlighting some of these issues and identifying the practical steps necessary to find solutions. In the course of the forums convened by civil society organizations (such as Fund for Peace), recommendations addressed to the relevant ministries in Ghana have comprised proposals for amending the regulations on the licensing of private security providers to require compliance with tenets of security and human rights (such as vetting for past abuses, training on the use of force, and ongoing monitoring). This will ensure that more local service providers are able to meet extractive company procurement standards in Ghana — promoting more local content — and increase the quality and training levels of security guards interacting with communities. The forums also produced action points on developing standardized training on the core tenets of the Voluntary Principles on Security and Human Rights through a recognized education institution, which can be used for training security forces. Although the primary target will

be the armed forces and the police force, the curriculum will be accessible also to private security providers in the future. Leveraging initiatives to convene regular forums is an effective way of bringing policymakers and practitioners together to find constructive solution to problems. It is also particularly useful for tackling issues concerning private security sector reform, which involves many regulatory and operational level factors and different constituencies.

54. The above-mentioned programmes provided a forum for representatives from the various regions to voice concerns and issues at the national level. They also provided an important opportunity for different communities, government stakeholders and mining, oil and gas companies to connect and share lessons learned and best practices.

D. Guiding Principles on Business and Human Rights

55. The Working Group noted that Ghana has a national policy on corporate social responsibility, which encourages the use of the Guiding Principles on Business and Human Rights as the minimum benchmark for ensuring corporate responsibility and strengthening safeguards against human rights violations. The Working Group recalls the importance of implementing the Guiding Principles and of building on best practices on human rights, including within the Extractive Industries Transparency Initiative (see A/HRC/26/25/Add.5). The Working Group met with representatives of civil society who shared information on the human rights abuses within the extractive industry, in which private security personnel are also employed. The challenges faced included human rights abuses in mining communities, such as forced displacement, encroachment onto family lands (including cemeteries and burial grounds), attacks and the use of force against community members, and pollution of water sources. According to the Working Group, the Guiding Principles should be implemented in conjunction with other positive initiatives to ensure against human rights abuses within the context of the extractive industry.

E. Extractive Industries Transparency Initiative

56. Since 2010, Ghana is a participant in the Extractive Industries Transparency Initiative, a global standard aimed at promoting the open and accountable management of oil, gas and mineral resources. It encourages a commitment to high standards of transparency and accountability in public life, government operations and business. Reporting within the context of the Initiative has highlighted gaps in the way the extractive sector is managed, leading to changes to the fiscal regimes governing the sector, such as the introduction of a capital gains tax, higher ground rent and fixed royalty rates. The Ghana Extractive Industry Transparency Initiative is the Ghana subset of the global initiative aimed at following due process and achieving transparency in payments by extractive industry companies to Governments and government-linked entities.

X. Challenges to national stability

57. The Working Group noted the presence of armed non-State actors, which could pose a threat to security in Ghana. Such threats should be addressed effectively if long-term stability in Ghana is to be assured.

A. Illegal miners

58. The Working Group in its visit observed with concern the activities of small-scale illegal miners (*galamsey*) mainly in various parts of the country. Given that gold is one of the State's most important resources, illegal miners have become a serious concern to past Governments and the current one, particularly since a number of them are armed.

59. The Working Group was informed about the persistent problems caused by illegal mining activities, of which there are two main forms: mechanized mining, carried out by local or foreign mining concerns; and artisanal mining, carried out by local gold miners. The Working Group learned mechanized mining activities are focused on extracting gold from the ore in rivers and streams, thereby polluting the waterways with cyanide and other toxins. The delegation also heard reports of violence associated with mechanized illegal mining on concessions granted to large-scale legal mines, including of armed illegal miners attacking and shooting unarmed mine security personnel, and of instances where illegal miners had been shot during police operations. The Working Group encourages Ghana to integrate human rights with respect to the use of security forces in its response to the problem of illegal mining.

60. The Working Group was informed that foreigners were also engaged in illegal mining, many of them from neighbouring countries and from other regions, including Asia and Europe. The grave concerns regarding the environment and safety issues raised by the activities of armed illegal miners prompted the Government to launch “Operation Vanguard”, involving members of the police force and the military. The Working Group recommends that human rights training be undertaken by the police and military personnel engaged in the extractive industry operations to ensure against human rights abuses.

61. The Working Group was informed that some police and military personnel working with mining companies were required to undergo training, including on the Voluntary Principles on Security and Human Rights. It recommends that such initiatives be extended to involve those engaged in operations against illegal mining and other criminal activities.

B. Vigilante groups

62. One serious concern in the sector is raised by the activities of vigilante groups, comprising youths and individuals (sometimes referred to as “foot soldiers”) affiliated with certain political parties. The spread of vigilante groups has resulted in incidences of violence during and after recent elections. The Working Group was informed that the groups began to form during the 1990s; today, they have become a serious challenge, sometimes engaged in violence and human rights violations. Parallel to this problem, the use of private bodyguards by political representatives was also raised by various interlocutors, as they are often armed. National law prohibits private security personnel from carrying arms, a ban that extends to those working as bodyguards. The activities of parallel groups or individuals in various parts of the country continue to pose a threat to national security; strong political will to combat such activities, particularly the phenomenon of vigilante groups, is critical.

63. The Working Group was repeatedly informed that vigilante groups were in certain cases even able to overpower local police forces, as witnessed when some stormed a courtroom, freed suspects on trial, and threatened the presiding judge. The police officers present in the courtroom were outnumbered. The Working Group is concerned that vigilante groups may enjoy a certain degree of impunity, given that it was not informed of any cases where perpetrators had been brought to justice. If not prosecuted for their actions, vigilante groups could seriously destabilize the parts of the country where they are concentrated. As one interlocutor warned, Boko Haram started out in a similar fashion.

C. Proliferation of illegal arms

64. The delegation was informed that around 1.3 million illegal arms were currently in circulation in Ghana, constituting a serious threat to national security. In the light of the activities of vigilante groups, armed *galamseys* and private security personnel not monitored by the Government, the need to effectively eliminate the proliferation of illegal arms should be prioritized, also given the State’s porous borders and the conflicts under way in neighbouring countries. The Working Group was informed that the smuggling of arms into Ghana was also a matter of concern. The Working Group urges the Government to address this issue.

D. Cross-border activities

65. Thanks to its stability, Ghana has been a safe haven for hundreds of thousands of asylum seekers and people seeking refuge from armed conflicts and atrocities in the region. Given its porous borders and the free movement of people and goods, however, the Ghanaian authorities should strengthen border monitoring, control and management. The Working Group has found in previous missions to other States in West Africa that, although free movement enhances cooperation, exchange and integration in the region, it can also be exploited for detrimental and destabilizing purposes, such as mercenarism and the influx of foreign fighters. Without effective monitoring and oversight of border movements, many foreign armed actors can take advantage to instigate criminal activities that could, potentially, lead to armed conflict. Such movements might involve illicit activities, such as organized criminal trafficking in weapons, drugs and persons, transhumance movements, where armed herders may be in violent conflict with local communities, or the movement of mercenaries from neighbouring countries. The fact that mercenaries took refuge in Ghana during the armed conflict in Cote d'Ivoire (see para. 22 above) is evidence of the need to ensure that the country does not become a safe haven for criminal armed actors as well. Strong cooperation within ECOWAS, the African Union and with international organizations is necessary to implement stronger border management.

XI. Conclusion and recommendations

66. The Working Group commends Ghana for maintaining stability, its democratic institutions and strong economy in a region roiled by armed conflict. It has ratified most of the core human rights treaties, and adopted many laws conducive to the promotion and protection of human rights, which should be fully implemented to ensure continued peace and stability, which will in turn facilitate economic growth. Mercenarism and mercenary-related activities, such as foreign fighters, do not constitute a current threat to Ghana.

67. The peace and stability that Ghana currently enjoys cannot, however, be taken for granted. Measures should be taken to safeguard the country against mercenaries and mercenary-related activities, which thrive in situations of unrest, political instability and armed conflict. It is therefore critical that stability is maintained and that Ghana continue to strengthen laws and effectively enforce them, thereby strengthening also the protection of human rights and security for the local population. Any protracted unrest risks leading to armed conflict and the proliferation of mercenary-related activities, a distinct possibility given the State's wealth in natural resources. Such a scenario has become all too common in certain neighbouring States, which have fallen prey to mercenarism and foreign fighter activities. Boko Haram and ISIL continue to pose a threat, particularly given the high rate of youth unemployment and the risk of radicalization and violent extremist elements.

68. Strong regulations and oversight over the private security industry and armed non-State actors, and the strengthening of measures to combat mercenaries and foreign-armed elements, will help to ensure that Ghana continues to be an oasis of peace in Africa. In spite of some of the challenges identified in the present report, the Working Group encourages the State to continue its open and democratic culture, which has contributed to the peace and stability today enjoyed by Ghanaians. To that end, it makes the recommendations below.

69. The Working Group recommends that Ghana:

(a) Establish an independent and robust oversight mechanism to vet and monitor the activities of private security companies, and keep a consistent record of data relating to them;

(b) Take more effective action to counter the illegal activities of private security companies and their personnel;

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- (c) **Ensure that international human rights standards are incorporated into the training manuals of private security companies, and that this become a standard requirement for licensing;**
- (d) **Ensure that private security personnel do not perform functions that come under the responsibility of State security apparatus;**
- (e) **Consider joining the International Code of Conduct Association for Private Security Service Providers' Association and the Montreux Document Forum in support of good practices and the effective regulation of private military and security companies;**
- (f) **Implement the Voluntary Principles on Security and Human Rights;**
- (g) **Consider implementing the Guiding Principles on Business and Human Rights as a minimum benchmark for ensuring corporate responsibility and strengthening safeguards against human rights violations, particularly in the context of the activities of private security companies;**
- (h) **Strengthen public security forces to address vigilante groups and other armed non-State actors, and bring vigilante perpetrators of criminal acts and human rights violations to justice;**
- (i) **Provide public security personnel training in relevant international human rights standards, including the Voluntary Principles on Security and Human Rights for those deployed to work in the extractive industries;**
- (j) **Encourage the full implementation of the national identification system in order to gather the biometric data of Ghanaian citizens, which would facilitate the monitoring of incoming potential foreign armed actors;**
- (k) **Increase efforts to end the proliferation of arms and weapons in the public domain;**
- (l) **Strengthen its cooperation with international and regional mechanisms, including ECOWAS, to combat mercenarism and mercenary-related activities;**
- (m) **Increase efforts with ECOWAS and neighbouring States to tighten border control and management to safeguard against mercenaries, foreign fighters and foreign armed elements, including those engaged in illegal mining activities;**
- (n) **Increase efforts to end the proliferation of arms and weapons in the public domain;**
- (o) **Ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;**
- (p) **Consider developing legislation to criminalize mercenarism and mercenary-related activities.**
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