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# Making the Case for Responsible Security

*How to foster responsible security in migration management provided by private security actors?*

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**FINAL REPORT**

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# I. Introduction

The private security landscape in complex environments has dramatically changed over the last decade. This evolution has been marked by a significant growth in the size of the private security industry,<sup>1</sup> an increasing market share for local security companies, and an expanding range of services being provided by private security companies (“PSCs”).<sup>2</sup> Recent migration flows and increasingly securitized immigration policies have led States to contract PSCs<sup>3</sup> to manage migration processing<sup>4</sup> and detention centers<sup>5</sup> as well as refugee camps<sup>6</sup> and border crossings<sup>7</sup>. In doing so they find themselves handling people in vulnerable contexts in terms of a variety of aspects, for example mental and physical health,<sup>8</sup> access to family contacts, and economic security, which poses challenges to the safeguarding of their rights. Proper living conditions and the respect of human rights and international humanitarian law (where applicable) in these detention and penal facilities may not be adequately enforced due to lack of capacity, training or regulation and oversight.<sup>9</sup> Furthermore, PSCs may be involved in surveillance activities and in the collection and storage of data and personal information on detainees, migrants or asylum seekers which also raises issues in terms of human rights.<sup>10</sup> However, the academic literature on the topic is devoid of a comprehensive mapping of PSC involvement in migration management. Without such a broader view, it is hardly possible to develop research-based best practices on responsible migration management that extend beyond individual cases. This report seeks to mitigate this shortcoming by bridging the gap between theory and practice. Based on a literature review, it presents an analysis of 18 semi-structured interviews with different populations of experts in the fields of migration and private security which were conducted between July and November 2022. The interviews have served to discover the rationale for PSCs’ (non-)involvement

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<sup>1</sup> Davitti, ‘Rise of Private Military and Security Companies in European Union Migration Policies’.

<sup>2</sup> Davitti, ‘Beyond the Governance Gap’, 495.

<sup>3</sup> For an overview of the development in the EU, see Davitti, ‘Rise of Private Military and Security Companies in European Union Migration Policies’.

<sup>4</sup> Davitti, 34.

<sup>5</sup> United Nations General Assembly, Human Rights Council, 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, ‘Impact of the Use of Private Military and Security Services’.

<sup>6</sup> Office of the High Commissioner for Human Rights (OHCHR), ‘Concerns over States Contracting Private Security Companies in Migration Situations’.

<sup>7</sup> Office of the High Commissioner for Human Rights (OHCHR).

<sup>8</sup> Shaw, ‘Review into the Welfare in Detention of Vulnerable Persons’, 191; Bosworth, ‘Impact of Immigration Detention on Mental Health’, 4–6.

<sup>9</sup> Cf. United Nations General Assembly, Human Rights Council, 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, ‘Impact of the Use of Private Military and Security Services’.

<sup>10</sup> United Nations General Assembly, Human Rights Council, 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, paras 39–45.

in migration management, to map the current state of affairs concerning PSCs' involvement in this field, and to identify best practices and compliance mechanisms.

Beyond contributing to bridging the aforementioned gap in the academic literature, this report, the product of an Applied Research Project ("ARP") produced at the Geneva Graduate Institute, is of specific interest for the International Code of Conduct for Private Security Providers' Association ("ICoCA"), the partner organization of the research project. ICoCA is a multi-stakeholder initiative comprised of States, non-governmental organizations ("NGOs") and PSCs themselves, formed in 2013 to ensure that providers of private security services respect human rights and humanitarian law.<sup>11</sup> It serves as the governance and oversight mechanism of the self-regulatory International Code of Conduct for Private Security Service Providers ("the Code").<sup>12</sup> The purpose of the Code is to set forth a commonly-agreed set of principles for PSCs and to establish a foundation to translate those principles into related standards as well as governance and oversight mechanisms.

The ARP which led to the production of this report has been embedded in ICoCA's "Making the case for responsible security" strategy<sup>13</sup> with the overarching goal to make tangible progress towards better respect for international norms by private security actors. It aims to do so by providing the Secretariat of ICoCA with multidisciplinary research that will inform the Secretariat's work toward this goal, particularly regarding migration management. The ICoCA Secretariat will use the research outcomes of this ARP to develop adequate guidance and training for PSCs and to propose amendments to the Code in accordance with the findings, as appropriate.

The overarching question that guides this ARP is thus:

*How to foster responsible security in migration management provided by private security actors?*

Specifically, the project has attempted to generate and analyze knowledge regarding the following points: (1) geographic variance of the implication of PSCs in migration management, (2) factors increasing or reducing the occurrence of human rights violations at the intersection of migration management and private security, and (3) best practices for migration management by private security. To answer the questions underlying these points, this report first elaborates a conceptual framework by engaging with the available academic and

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<sup>11</sup> International Code of Conduct Association (ICoCA), 'The International Code of Conduct Association – ICoCA'.

<sup>12</sup> International Code of Conduct Association (ICoCA).

<sup>13</sup> Bernard, 'Making the Case'.

gray literature (see section II. of this report). The following sections detail the research process (III.), before the findings are presented (IV.) and recommendations made (V.). The report then concludes with a reflection on the research process (VI.).

## Legal Background

While this report is not a legal analysis, it is important to keep in mind that the issues discussed in it are not floating in a lawless space, but are largely shaped by international law. International law primarily binds states.<sup>14</sup> Yet, in many situations of migration management, the State is responsible under international law for the actions of the PSC it has contracted, which means that the PSC is at least indirectly bound by international law.<sup>15</sup>

Particularly relevant treaty law in the context of migration management is the 1951 Refugee Convention<sup>16</sup>, and the Covenant on Civil and Political<sup>17</sup> as well as the one on Economic, Social and Cultural Rights<sup>18</sup>. The Covenants contain important provisions in the context of migration management such as the prohibition of torture or cruel, inhumane or degrading treatment or punishment (Art. 7 IC-CPR), the right to the highest attainable standard of health (Art. 12 ICESCR), or the right to adequate food (Art. 11 ICESCR). While the rights in the ICESCR are subject to progressive realisation, Article 4 prohibits limitations incompatible with the core nature of a right. The 1951 Refugee Convention contains in its article 33(1) the principle of *non-refoulement*, which prohibits the expulsion or forced return of refugees to a place where their lives would be in danger because of their race, religion, nationality, membership of a particular social group or political opinion.

Beyond treaty law, the pertinent customary international law is to be taken into account, which may extend beyond the aforementioned treaty law and be applicable where treaty law is not. In the case of *non-refoulement*, customary international law stipulates that generally, the transfer of a person from one authority to another is prohibited when there are substantial grounds for believing that the person would be in danger of being subjected to violations of certain fundamental rights.<sup>19</sup>

Instruments such as the Montreux Document<sup>20</sup> and the UN Guiding Principles on Human Rights with their 'Respect, Protect, and Remedy' framework<sup>21</sup> play an important role in specifying the obligation of states in the context of PSC activities. The International Code of Conduct, on the other hand, offers decisive guidance on what rules PSCs themselves should abide by, particularly regarding the conduct of personnel, for example in the context of the use of force, and regarding the management and governance of PSCs, for example in terms of training.<sup>22</sup> Signatories of the Code affirm that they have a responsibility to respect the human rights of, and fulfil humanitarian responsibilities towards, all those affected by their business activities, including personnel, clients, suppliers, shareholders, and the population of the area in which services are provided.<sup>23</sup>

<sup>14</sup> Crawford, *Brownlie's Principles of Public International Law*, 105.

<sup>15</sup> Cf. United Nations General Assembly, Responsibility of States for internationally wrongful acts. Resolution adopted by the General Assembly [on the report of the Sixth Committee (A/56/589 and Corr.1)], art. 5; International Law Commission, 'Yearbook 2001, II/2', 43.

<sup>16</sup> Convention relating to the Status of Refugees, Geneva, 28 July 1951, 189 UNTS 137, as amended by the Protocol relating to the Status of Refugees, New York, 31 January 1967, 606 UNTS 267.

<sup>17</sup> International Covenant on Civil and Political Rights (ICCPR), New York, 16 December 1966, 999 UNTS 171.

<sup>18</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), New York, 16 December 1966, 993 UNTS 3.

<sup>19</sup> 'Note on Migration and the Principle of *Non-Refoulement*', 346 with further references.

<sup>20</sup> International Committee of the Red Cross, 'Montreux Document'.

<sup>21</sup> United Nations Office of the High Commissioner for Human Rights, 'UNGP'.

<sup>22</sup> 'The Code'.

<sup>23</sup> International Code of Conduct for Private Security Service Providers as Amended 10 December 2021, paras 4–5.

## II. Literature Review

In order to set out the conceptual framework for the research conducted, several decisive concepts must be defined to delineate the conceptual framework of the project (1.). Then, this section turns to highlighting known human rights abuses by PSCs (2.), and to an analysis of key concepts of the literature surrounding PSC involvement in migration management (3.) before considering recommendations and best practices on the matter (4.).

### 1. Definitions

Three decisive concepts that feature directly in the overarching research question must be defined to delineate the scope of the project. This is the one of Private Security Company (“PSC”), which delineates the research *ratione personae* (a.), as well as migration management (b.) and services provided by PSCs (c.), which define the research *ratione materiae*.

#### a. Private Security Companies

The distinction between PSCs and Private Military Companies (“PMCs”) is conceptually muddled and both terms are used interchangeably in much of the literature. Some authors like Cockayne<sup>24</sup>, Percy<sup>25</sup> and organizations like the UN<sup>26</sup> simply refer to them jointly as Private Military and Security Companies (“PMSCs”). In addition, the Montreux Document also uses the term PMSCs.<sup>27</sup> For this report, the researchers employ the definition set out in the Code. The definition refers to Private Security Companies and Private Security Service Providers collectively as “PSCs” and stipulates that it includes “any company whose business activities include the provision of Security Services either on its own behalf or on behalf of another, irrespective of how such Company describes itself”.<sup>28</sup> This includes activities such as operating migration detention facilities, operational and logistical support for armed or security forces, the recruiting and training of security personnel, and any other protective activity for which the personnel of companies are required to carry or operate a weapon in the performance of their duties.<sup>29</sup> ICoCA in its definition thus includes a wide range of actors from guard dog companies to mall cops to operators of weapons systems.

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<sup>24</sup> Cockayne, James, ‘Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promise of the Montreux Document’, 401.

<sup>25</sup> Percy, Sarah, ‘Private Military and Security Companies: The Future for Research’, 89.

<sup>26</sup> See e.g. United Nations General Assembly, Human Rights Council, 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, ‘Mercenary Working Group Report’.

<sup>27</sup> International Committee of the Red Cross, ‘Montreux Document’.

<sup>28</sup> International Code of Conduct for Private Security Service Providers as Amended 10 December 2021, sec. B.

<sup>29</sup> International Code of Conduct for Private Security Service Providers as Amended 10 December 2021, sec. B.

## **b. Migration Management**

Migration management as understood and used in this report encompasses the various activities performed by states or on behalf of states relating to people who cross international borders. It includes but is not limited to migration detention and border management/control. Migration detention is defined as restriction on freedom of movement through confinement based on an individual's immigration status.<sup>30</sup> Border management/control refers to the "measures adopted by a country to regulate and monitor its borders, specifically regulating the entry and exit of people at various border points".<sup>31</sup> As a result of the usage of these two definitions, internal migration, which according to the Swiss Federal Statistical Office refers to changes of residence within a country,<sup>32</sup> is excluded from migration management in this report. The following section will explain what activities PSCs perform in this context in further detail.

## **c. Services Provided by PSCs**

As previously stated, various governments often outsource migration detention and border management to PSCs. As a result, the services provided by PSCs in the context of migration detention currently includes the following but may not be limited to:

- National and international transport services<sup>33</sup>
- Deportations<sup>34</sup>
- Border security, surveillance, and tracking<sup>35</sup>
- Transit-zone (such as airports) detention facilities<sup>36</sup>
- Security of reception and/or processing centers<sup>37</sup>

In the US, during the Trump administration, the government contracted MVM Inc. to supply transportation and translation services specifically to migrant children.<sup>38</sup> In 2018, MVM, transported parents to staging facilities near the shelters where their children were being detained. In addition, the company's security workers oversaw the tent courthouses

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<sup>30</sup> 'People on the Move: Handbook of Selected Terms and Concepts', 25.

<sup>31</sup> 'People on the Move: Handbook of Selected Terms and Concepts', 31.

<sup>32</sup> Federal Statistical Office, 'Migration and Integration'.

<sup>33</sup> Dickerson, "'A Private Security Company Is Detaining Migrant Children at Hotels.'", 2020.

<sup>34</sup> Davitti, Daria, 'The Rise of Private Military and Security Companies in European Union Migration Policies', 34.

<sup>35</sup> Arbogast, "'Migrant Detention in the European Union: A Thriving Business.'"

<sup>36</sup> Flynn, Michael, 'Kidnapped, Trafficked, Detained? The Implications of Non-State Actor Involvement in Immigration Detention'.

<sup>37</sup> Davitti, Daria, 'The Rise of Private Military and Security Companies in European Union Migration Policies'.

Davitti, Daria, 'The Rise of Private Military and Security Companies in European Union Migration Policies', 34.

<sup>38</sup> Dickerson, "'A Private Security Company Is Detaining Migrant Children at Hotels.'", 2020.



that were erected to process cases of asylum seekers who had been made to wait out their cases in Mexico.<sup>39</sup> By doing so, this illustrates PSCs can construct or oversee critical infrastructure such as courthouses that are integral to processing immigration cases.

Another company, G4S, was known as one of the world's largest private security companies, employing around 625,000 employees globally.<sup>40</sup> In 2021 G4S was acquired by Allied Universal. Prior to 2021, G4S had contracts regarding the management of detention centers throughout the UK, the Netherlands, and Australia. They also provided security and technology services to strengthen border control between Mexico and the United States.<sup>41</sup> Moreover, G4S carried out deportations in several countries.<sup>42</sup> In addition to providing security services in immigration detention centers, PSCs are also active in border security/surveillance and management services.

*Border Security and Surveillance:* PSCs are in the business of using technology to track migrants.<sup>43</sup> The US employs various PSCs that provide electronic surveillance through ankle monitors and proprietary tracking apps to ensure migrants are attending their court dates and meeting regularly with their case managers.<sup>44</sup> One company within this domain is ISS Action whom the federal government contracts to provide security services or technology along the US-Mexico border.<sup>45</sup> In addition, Seguridad Ejecutiva Armada, a Mexican private security company is known to “coordinate with US border patrol to prevent migrants who try to jump the border wall to surrender to US authorities”.<sup>46</sup> Research demonstrates that the U.S. government contracted over 50 PSCs from 2010-2019 to provide a variety of services and products for the surveillance and tracking of migrants.<sup>47</sup>

*Challenges of Providing Management Services:* PSCs involved in the management, whether partial or full, of migrant detention centers are faced with having to provide miscellaneous services as well. For example, a former deputy assistant director for custody management at the US Immigration and Customs Enforcement, who previously worked with the PSC MVM, highlighted how because the company oversaw the transportation of migrant

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<sup>39</sup> Dickerson.

<sup>40</sup> Lemberg-Pedersen, ‘Private Security Companies and the European Borderscapes’, 154.

<sup>41</sup> Sørensen and Gammeltoft-Hansen, ‘La Comercialización Internacional Y Los Múltiples Actores En La Industria Migratoria.’

<sup>42</sup> Sørensen and Gammeltoft-Hansen.

<sup>43</sup> Narajo, Diego and Molnar, Petra, ‘The Privatization of Migration Control’.

<sup>44</sup> Narajo, Diego and Molnar, Petra.

<sup>45</sup> Seiden, ‘NYC Firm Withstands G4S’s Protest of \$277 Million Border Award’.

<sup>46</sup> Calderon, “‘SEA, LA EMPRESA QUE HACE de PATRULLA FRONTERIZA EN MÉXICO.’”

<sup>47</sup> “‘Report on the Role of Private Security Companies in Migrant Detention in the U.S. And Their Impact on the Protection of the Rights of Migrants.’”

children, its workers found themselves having to change diapers.<sup>48</sup> In addition, the security workers had to also feed children as young as a year old and were sometimes tasked with taking care of migrant children dealing with the psychological effects of having witnessed and/or experienced traumatic events.<sup>49</sup> The services PSCs provide are therefore not always clear and contingent on the different types of populations detained in migration detention centers. Examples like these speak to the complexity of the role PSCs play in migration management and highlight how these miscellaneous services are only discussed when investigations are made regarding the activities of PSCs with people in vulnerable situations. The following section points out human rights abuses by PSCs that can emerge because of challenges associated with providing migration detention management services.

## 2. Human Rights Implications of Migration Management

Over the years various journalists, civil society, NGOs and international organizations have documented human rights abuses by PSCs operating in migration detention and border control contexts. Being confined to a facility without the liberty of free movement renders migrants, refugees, and asylum seekers susceptible to possible human rights abuses at the hands of those managing said facilities. Some known human rights abuses include but may not be limited to:

- Denied access to medical services<sup>50</sup>
- Denied access to legal services<sup>51</sup>
- Sexual violence, abuse, and exploitation<sup>52</sup>
- Verbal, physical, and psychological abuse<sup>53</sup>
- Targeted surveillance<sup>54</sup>

Migration detention centers are intended to be temporary holding facilities while the appropriate government agency or agencies determine the immigration status of an individual or, when applicable, their deportation. The notion of these facilities being only a temporary place of stay while migrants, refugees and asylum seekers await their immigration ap-

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<sup>48</sup> Dickerson, “A Private Security Company Is Detaining Migrant Children at Hotels.”, 2020.

<sup>49</sup> Dickerson.

<sup>50</sup> Shaw, Stephen, ‘Review into the Welfare Detention of Vulnerable Persons’, 24.

<sup>51</sup> Arbogast, “Migrant Detention in the European Union: A Thriving Business.”, 40.

<sup>52</sup> Davidson, Helen, ‘The Nauru Files: Cache of 2,000 Leaked Reports Reveal Scale of Abuse of Children in Australian Off-shore Detention’.

<sup>53</sup> Arbogast, “Migrant Detention in the European Union: A Thriving Business.”, 22.

<sup>54</sup> Knaus, Christopher, ‘Coalition Used Private Contractor to Collect Intelligence on Nauru Asylum Seekers’.

plications, can reinforce the idea that these various groups of people are not entitled to a certain level of access to services.<sup>55</sup>

**Case: Nauru**

The Nauru Files, published in 2016 by *The Guardian*, detailed trauma and abuse inflicted on children who were detained in an Australian offshore detention center in the small island country of Nauru.<sup>56</sup> The files included alleged cases of physical abuse by guards towards children as well as sexual abuse towards both girls and boys.<sup>57</sup> Wilson Security was hired to ensure that policies and procedures were being followed by staff at the detention centers.<sup>58</sup> However, the files, according to *The Guardian*, paint a different reality where there were no accountability mechanisms in place for guards committing various human rights abuses.<sup>59</sup>

**3. Academic Concepts and Analyses**

Migration management has been defined as a “set of rules and practices historically developed by a country”.<sup>60</sup> Moreover, the topic of migration, as studied from an academic Western European and North American perspective has led to the domain being split into two different categories: migration studies and refugee studies.<sup>61</sup> Adamson and Betts argue these two categories in turn focus on different aspects.<sup>62</sup>

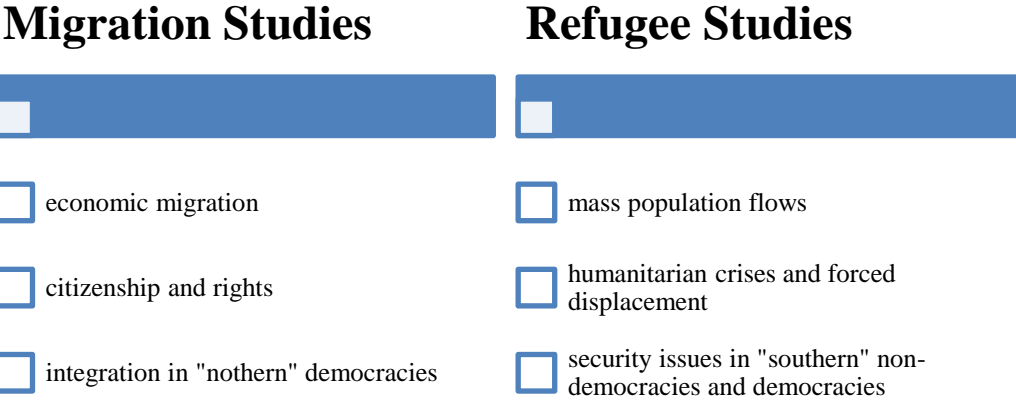


Figure 1: Migration and Refugee Studies after Adamson and Betts

<sup>55</sup> American Immigration Council, ‘The “Migrant Protection Protocols”’.  
<sup>56</sup> Davidson, Helen, ‘The Nauru Files: Cache of 2,000 Leaked Reports Reveal Scale of Abuse of Children in Australian Off-shore Detention’.  
<sup>57</sup> Davidson, Helen.  
<sup>58</sup> Davidson, Helen.  
<sup>59</sup> Davidson, Helen.  
<sup>60</sup> Pacciardi and Berndtsson, ‘EU Border Externalisation and Security Outsourcing: Exploring the Migration Industry in Libya’.  
<sup>61</sup> Adamson and Tsourapas, ‘The Migration State in the Global South: Nationalizing, Developmental, and Neoliberal Models of Migration Management’.  
<sup>62</sup> Adamson and Tsourapas.

Adding to this bifurcation of the domain of migration is the notion of the ‘Global North’ as migrant receiving nations and the ‘Global South’ as transit and/or sending nations. Categorizing these regions as such has implications for academic research. The term ‘Global South’ as employed here refers broadly to the regions of Latin America, Asia, Africa, and Oceania.<sup>63</sup> It is one of a family of terms, including ‘Third World’ and ‘Periphery’, that denote regions outside Europe, North America and Australia, mostly (though not all) low-income and often politically or culturally marginalized.<sup>64</sup> The use of the phrase ‘Global South’ marks a shift from a central focus on development or cultural difference toward an emphasis on geopolitical relations of power.<sup>65</sup> Yet, ‘Global South’ often functions as metaphor for ‘under-development’ as it alludes to a history of colonialism and neo-imperialism, and differential economic relations through which inequalities in living standards, life expectancy, and access to resources are maintained.<sup>66</sup> The research team considers the term therefore to be problematic, which is why it is used in this report in single quotation marks. Moreover, as it summarizes very different places, countries and even continents under one umbrella, the term risks overlooking many key differences between them. The team will thus attempt to refer to countries or continents specifically wherever possible.

Referring to the ‘Global North’ as destination states has rendered the research on migration trends occurring in this region focused on Western European and North American migration policies.<sup>67</sup> *Cusumano* and *Kinsey* state that “the existing academic literature on private security has held nearly an exclusive focus on Western democracies and lacks a truly global perspective”.<sup>68</sup> More importantly, these issues have historically been explored using a state-centric model.<sup>69</sup> As the role of PSCs in migration management and border management has increased over the past twenty years, the academic literature has gradually begun to include the role of PSCs within the context of migration in its various stages.<sup>70</sup>

In this context, the literature has focused particularly on four phenomena, that is critical security studies (a.) the externalization of migration at the EU’s external borders (b.), the so called borderscapes (c.) and the notion of opaque security (d.).

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<sup>63</sup> Dados and Connell, ‘The Global South’, 12.

<sup>64</sup> Dados and Connell, 12.

<sup>65</sup> Dados and Connell, 13.

<sup>66</sup> Dados and Connell, 13.

<sup>67</sup> Castles, ‘Understanding Global Migration: A Social Transformation Perspective’.

<sup>68</sup> Cusumano, Eugenio and Kinsey, Christopher, ‘Advancing Private Security Studies: An Introduction to the Special Issue’.

<sup>69</sup> Castles, ‘Understanding Global Migration: A Social Transformation Perspective’.

<sup>70</sup> López-Sala and Gordenau, “In Private Hands? The Markets of Migration Control and the Politics of Outsourcing.”

### a. Critical Security Studies

As the research question for this project is concerned with how private security actors can foster responsible security when operating in migration and border management contexts the concept of security needs to be explored. One important component of critical security studies relevant to this paper is its critique of how security is conceived in the traditional realist approach. In the realist school of thought the state is thought to be the key actor associated with providing security as well as the subject *of* security.<sup>71</sup> Thus, when it comes to providing services such as migration management and border control, the realist school of thought approaches it through a state-centric prism. However, as *Flynn*<sup>72</sup> and *Betts* point out, migration management is “in fact polycentric, involving a range of public and private actors”.<sup>73</sup> *Flynn* illustrates this by highlighting a 2016 Global Impact for Migration report by the UN Secretary General which states, “the compact should consider the roles and responsibilities of countries of origin, transit, and destination of migrants [... as well as of] private sector recruiters and employers”.<sup>74</sup>

Thus as, *Browning* and *McDonald* suggest, it is important to move beyond a critique of traditional security studies and address the question of “what does security *do* politically?”<sup>75</sup>. In other words: what kind of policies do governments implement in response to a security issue? which actors are being legitimated as providers of security?<sup>76</sup> In the European Union context, externalization migration policies were deployed starting in the early 2000s and gradually private security companies were contracted to provide a variety of services in the migration sector.<sup>77</sup> As a result, another question arises: what kind of security emerges when private security actors operate in migration management and border control environments?

When private security companies acquire government contracts to oversee a migration detention facility or provide security at border control points, security is being handed over from a state actor to a non-state actor. It is essentially being decentralized and security

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<sup>71</sup> Browning, Christopher and McDonald, Matt, ‘The Future of Critical Security Studies: Ethics and the Politics of Security’.

<sup>72</sup> Flynn, Michael, ‘Kidnapped, Trafficked, Detained? The Implications of Non-State Actor Involvement in Immigration Detention’.

<sup>73</sup> Betts, Alexander, ‘The Migration Industry in Migration Global Governance’.

<sup>74</sup> Flynn, Michael, ‘Kidnapped, Trafficked, Detained? The Implications of Non-State Actor Involvement in Immigration Detention’.

<sup>75</sup> Browning, Christopher and McDonald, Matt, ‘The Future of Critical Security Studies: Ethics and the Politics of Security’, 236.

<sup>76</sup> Browning, Christopher and McDonald, Matt, 236.

<sup>77</sup> See *infra* IV.1.c.

then takes on a multi-actor approach. Classic accountability and compliance mechanisms encounter practical and sometimes legal difficulties in such constellations.<sup>78</sup> Therefore, responsible security, in a migration and border control context, can be conceptualized as a roadmap of best practices and recommendations which ensure private security companies are adhering to human rights standards and promote the dignity of migrants as they go through the various stages of their migration journey.

#### **b. Externalization of EU Migration**

In her 2003 article, scholar *Christina Boswell* discusses the idea of the externalization of traditional tools of domestic or EU migration control. *Stock, Üstübici, and Schultz* also acknowledge that “the term ‘externalization’ is used by migration scholars, policymakers, and the media to describe a wide range of practices from border controls, rescue operations, to measures addressing the drivers of migration”.<sup>79</sup> *Boswell* states that the purpose of implementing externalization practices is to rein in the participation of transit and sending countries in helping to mitigate human trafficking, illegal migration, and strengthen border controls.<sup>80</sup> Here it must be noted that migration is analyzed through state-to-state dynamics. Furthermore, she argues in the early 2000s that the European Union was testing out two types of approaches to migration: externalization and preventive measures (the latter “meaning measures curated to influence people’s decisions to move or choose their destination country”).<sup>81</sup> *Boswell* accurately predicted the EU would rely more on externalization methods.<sup>82</sup> This is evident in *Lemberg-Pedersen’s* 2013 article where he also describes the EU’s externalization system of migration, but he enlarges the conceptual framework by reformulating the term to now include the public-private partnership emerging from PSCs being involved in migration management and border control.<sup>83</sup> According to *Lemberg-Pedersen*, externalization has essentially moved beyond a collaboration between two or more states in different continents combating illegal migration and/or refugee flows to now encompassing the state outsourcing or externalizing its border control methods to non-state actors.

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<sup>78</sup> Siegfried, Kristy, ‘Private Security Firms Prosper as More Migrants Detained’.

<sup>79</sup> Stock, Ustubici, and Schultz, ‘Externalization at Work: Responses to Migration Policies from the Global South’.

<sup>80</sup> Boswell, ‘The “External Dimension” of EU Immigration and Asylum Policy’, 619-620.

<sup>81</sup> Boswell, 619.

<sup>82</sup> Boswell, 620.

<sup>83</sup> Lemberg-Pedersen, ‘Private Security Companies and the European Borderscapes’, 157.

Scholars such as *Avant*<sup>84</sup> and *Holmqvist* argue that the proliferation of PSCs over the last 20 years can, in part, be attributed to the US invasion of Iraq and Afghanistan.<sup>85</sup> During the US takeover of both countries, the US Department of State contracted services out to Blackwater and Dyncorp.<sup>86</sup> It is important to highlight that these two companies are private military companies and not private security companies, which are the focus of this report. They nonetheless represent one of the most extensive privatizations of services, such as interrogation of prisoners, perceived to belong to the state in the early 21<sup>st</sup> century. Another important driver in the prevalence of PSCs was what has been referred to as the “2015 EU migration/refugee crisis”. *Davitti* states that the influx of migrants and refugees during 2015 into the European Union did not mount to a crisis per se but because the situation was framed as a humanitarian emergency it allowed for specific measures, such as the outsourcing of security contracts to PSCs, to be commonplace.<sup>87</sup> Furthermore, research done by the Humanitarian Policy Group in 2008 found that another reason for the emergence of PSCs, specifically in the ‘Global North’, includes the “post-Cold War increase in the number of professional ex-military and police personnel for hire”.<sup>88</sup> The academic literature, therefore, demonstrates that as PSCs operate in migration detention and border control contexts, they represent an important actor for ongoing research. However, the academic discourse does not lead to the development of best practices for these non-state actors. Similarly, existing manuals on best practices tend to be more based on accounts of what is happening on the ground and not well-connected back to academic literature.

### c. Borderscapes

*Lemberg-Pedersen* describes the term borderscapes as “multifaceted sites of interventions for public and private actors”.<sup>89</sup> As a result, borderscapes characterize the spaces (ex. border points, migration detention centers) in which the government, private security companies, and other actors operate simultaneously. One of the most critical contributions *Lemberg-Pedersen’s* work presents is how the outsourcing of migration management to PSCs redefines the territories of the state. By bringing in a non-state actor to act as a guard, provide digital surveillance services, or oversee the construction of facilities which house mi-

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<sup>84</sup> Avant, Deborah, *The Market for Force: The Consequences of Privatizing Security*.

<sup>85</sup> Holmqvist, Caroline, ‘The Global War on Terrorism and the Privatization of Security’.

<sup>86</sup> Fitzsimmons, Scott, *Private Security Companies during the Iraq War*, 15.

<sup>87</sup> Davitti, Daria, ‘The Rise of Private Military and Security Companies in European Union Migration Policies’, 34.

<sup>88</sup> DiDomenico, Victoria Harmer, Adele, ‘The Use of Private Security Providers and Services in Humanitarian Operations’, 17.

<sup>89</sup> Lemberg-Pedersen, ‘Private Security Companies and the European Borderscapes’, 152.

grants and refugees, governments have altered their borders. In other words, borders are no longer spaces solely under the management of sovereign states; they are spaces being shaped by the presence of private security companies. From an academic point of view, by invoking the term borderscapes, PSCs can be seen as important actors partaking in the bordering process of a state.<sup>90</sup>

#### d. Opaque Security?

*Lemberg-Pedersen* highlights how PSCs can merge, sub-contract and create subsidiary companies which strengthens their ability to land government contracts.<sup>91</sup> For example, both G4S and Leonardo S.p.A have subsidiary companies involved in the areas of electronic surveillance equipment and transportation. In addition, *López-Sala* and *Gordenau* conducted a case study on Spain and stated that “as a general rule outsourcing of migration control in Spain has been implemented opaquely with a lack of public information and decisions taken behind closed doors”.<sup>92</sup> As privatization becomes more embedded into the governance and tracking of people across borders, transparency and humanitarian standards for the actors involved is integral to ensure the human rights of migrants and refugees are respected.

Adding to the notion of opaque security, an area for possible future research regarding PSCs are what *Baird* and *Feldman* call border security fairs. These are places where “the circulation and consumption of border security products occur and are by and large invite only”.<sup>93</sup> Research on these spaces can be anchored in analyzing how the knowledge of border security professionals shapes the broader processes of deploying migration management tools such as technology.

A problem with how migration has been academically studied is that “much of what scholars have theorized about migration has been based on migration from ‘Global South’ to ‘Global North’ countries”.<sup>94</sup> This then brings up the question of “how much of that theory can apply to various migration patterns, specifically South-to-South migration”.<sup>95</sup> It is important to acknowledge here that *privatized* migration in the ‘Global South’ is not being explicitly mentioned; only the word migration is being used, again implying a state-centric analysis. Scholars such as *Flynn* and *Cannon* have contributed to filling this research gap by

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<sup>90</sup> Lemberg-Pedersen, 153.

<sup>91</sup> Lemberg-Pedersen, 157.

<sup>92</sup> López-Sala and Gordenau, “In Private Hands? The Markets of Migration Control and the Politics of Outsourcing.”, 2.

<sup>93</sup> Baird, ‘Knowledge of Practice’.

<sup>94</sup> Nawyn, ‘New Directions for Research on Migration in the Global South’.

<sup>95</sup> Nawyn.



highlighting instances of privatized migration in South Africa.<sup>96</sup> For example, their work has highlighted how in 2007, a subsidiary of Bosasa, a South African PSC, obtained a contract to manage the migration detention facility Lindela.<sup>97</sup> This example illustrates how PSCs are able to continue transferring their services over to subsidiaries, or other non-state actors, and thus expanding the decentralization of security. Doing so, can make it a difficult task to track and identify exactly who is providing private migration management and border control services, creating an opaque security environment.

As *Castles* points out, there needs to be a reframing of migrants and refugees away from being “burdens for receiving states and [towards] seeing them more as part of a positive social change in both receiving and sending societies”.<sup>98</sup> By deeming migration as a positive social change, it can then be analyzed as a social phenomenon and not simply as a humanitarian crisis or security issue, which implies that it needs to be stopped. Moreover, seeing migration as a social phenomenon and researching more about the migration patterns in the ‘Global South’ will allow scholars to “develop theories of migration that more fully encapsulate all human movement across borders”.<sup>99</sup>

#### 4. Best Practices

A substantial part of the contemporary best practice literature on migration management focuses on non-custodial alternatives to detention (“ATDs”).<sup>100</sup> Institutions like the UNHCR<sup>101</sup> and IOM<sup>102</sup> argue that states should consider alternatives to detention whenever possible and use detention of migrants only as an exceptional measure. Although the discretion on the type of measure applied to migrants falls on the state, PSCs can still create a supply-side incentive for governments to consider ATDs by developing programs and presenting these alternatives to authorities as viable options.<sup>103</sup> Although one may think that ATDs are a threat to PSCs as they eliminate the need for security personnel, this is not always the case. Some ATDs such as open or semi-open facilities, reporting programs, controlled release, and electronic monitoring initiatives still require the supervision and in-

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<sup>96</sup> Flynn and Cannon, ‘Privatization of Immigration Detention’.

<sup>97</sup> Flynn and Cannon.

<sup>98</sup> Castles, ‘Understanding Global Migration: A Social Transformation Perspective’.

<sup>99</sup> Nawyn, ‘New Directions for Research on Migration in the Global South’.

<sup>100</sup> See for instance European Alternatives To Detention Network, ‘Alternatives to Detention’.

<sup>101</sup> United Nations High Commissioner for Refugees, ‘UNHCR Detention Guidelines’.

<sup>102</sup> International Organisation for Migration (IOM), ‘International Standards on Immigration Detention and Non-Custodial Measures’.

<sup>103</sup> Priceman, ‘The Real Alternatives to Detention’.

volvement of security personnel. Some may even require increased personnel, as a result of increasing the total number of migrants in such programs which can be scaled at less cost and applied more broadly.<sup>104</sup> These measures can be an opportunity for growth for visionary PSCs, as well as produce better standards. This perspective implies that PSCs can be proactive in adapting to this emerging trend and turn a risk into an opportunity. There has been a fear in many countries of what some scholars refer to as the ‘immigration industrial complex’,<sup>105</sup> where PSCs lobby governments for lower standards and harsher measures against migrants to increase the number of migrants in detention centers and boost profits. What ATDs represent then is the potential to align the interests of PSCs as a business, the welfare of migrants, as well as the goals of the government to protect borders and security.

Once it has been decided that detention is the measure that will be applied to a migrant, a comprehensive set of best practices can be derived from the literature on how best to ensure the protection of human rights specifically among populations in vulnerable situations. First, there is credence to the argument that PSCs rather than state-run detention centers produce the best results both in terms of security as well as the protection of human rights.<sup>106</sup> The argument follows the rationale that through competition, firms are incentivized to ensure the best possible performance or fear losing their contract, an incentive that is not present in state-run facilities. A 2009 cross-regional analysis of private and public migrant detention centers has found evidence toward this thesis albeit there were some exceptions.<sup>107</sup> The study found firstly that consolidation of PSCs into dominant market players or monopolies severely reduces competition and results in lower standards in countries like the United States. Secondly, the study found that in South Africa, the intimate relationship between the state and the contracted firm eliminated the threat of contract termination and produced races to the bottom. It is best practice then for a state to monitor and ensure that the market dynamics of fair competition are present, and that good performance is measured not just in terms of security but by protecting human rights.<sup>108</sup>

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<sup>104</sup> Sampson *et al.*, *There Are Alternatives*.

<sup>105</sup> Golash-Boza, ‘The Immigration Industrial Complex’.

<sup>106</sup> Morris, ‘In the Market of Morality: International Human Rights Standards and the Immigration Detention “Improvement” Complex’.

<sup>107</sup> Flynn and Cannon, ‘Privatization of Immigration Detention’.

<sup>108</sup> Flynn and Cannon.

There have been multiple working groups at the UN<sup>109</sup>, studies funded by state and non-governmental agencies,<sup>110</sup> and internal reviews<sup>111</sup> which have cultivated over the years a comprehensive list of best practices and compliance mechanisms to ensure the protection of human rights in migrant detention, particularly for populations in vulnerable situations.<sup>112</sup> The following sections detail a compilation of these practices and mechanisms derived from the literature and explain their emergence and rationale. In particular, they focus on the location and design of detention centers (4.a.), on their staffing and the staff's training (4.b.), on language and communication (4.d.), transparency and oversight (4.e.), and lastly on accountability and due diligence (4.f.).

#### **a. Location and Design of Detention Centers**

Before erecting a detention center, the responsible PSC should ensure it has chosen the appropriate environment for it. Ad hoc centers have become common practice, but these often provide wholly inadequate facilities to comply with the rights and responsibilities PSCs owe both to migrants and employees alike.<sup>113</sup> From sufficient space to segregate cohorts such as genders, ages, or nationalities, to preventing overcrowding, to ensuring access to outdoor and physical activities, selecting the correct location and infrastructure is a critical requisite step in the chain of best practices. The IOM provides a long and detailed list<sup>114</sup> of best practices solely focused on the composition of a migrant detention center. Broadly, these centers need to ensure that their design mitigates possibilities for self-harm, ensures climate-adapted comfort, minimum requirements of personal space, and specific protocols and design features for health and hygiene.<sup>115</sup> The best practice literature continually asserts one main point: migrant detention centers are not prisons and these facilities should not be interchangeable.<sup>116</sup> Migrants are not criminals or violent as such. They should not be subjected to solitary confinement or prison-style cells and cages.

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<sup>109</sup> See for example: <https://migrationnetwork.un.org/>.

<sup>110</sup> European Alternatives To Detention Network, 'Alternatives to Detention'; Schriro, 'Immigration Detention Overview and Recommendations'.

<sup>111</sup> United Nations High Commissioner for Refugees, 'UNHCR Detention Guidelines'.

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<sup>113</sup> Bilgin Ayata *et al.*, 'Infrastructure Space and the Future of Migration Management'.

<sup>114</sup> International Organisation for Migration (IOM), 'Guidelines for Border Management and Detention Procedures Involving Migrants'.

<sup>115</sup> International Organisation for Migration (IOM), 'International Standards on Immigration Detention and Non-Custodial Measures'.

<sup>116</sup> International Organisation for Migration (IOM), 'Guidelines for Border Management and Detention Procedures Involving Migrants'; United Nations High Commissioner for Refugees, 'UNHCR Detention Guidelines'.

## **b. Staff and Training**

In line with the idea that detention centers are not prisons but rather administrative facilities, PSCs should not employ personnel with only police or military security training. Instead, these centers require a more diverse set of employees ranging from mental and health professionals to educators, to social workers, to interpreters.<sup>117</sup> Although many of these roles seemingly fall outside the purview of a PSCs, they form an integral part of any detention center and there needs to be some portion of the state budget allocated to these ends. If a state does not take this initiative, a best practice is for the PSC to negotiate this as an essential component of the operation of such a center. All employees of the PSC should also be given specific training in human rights, dealing with cultural diversity, as well as people in vulnerable situations as these are the prominent characteristics of the environment they will work in every day. Furthermore, the literature has identified a positive correlation between salary and working conditions with performance and adherence to human rights.<sup>118</sup> Ensuring an acceptable migrant-to-personnel ratio, that workers are not overworked, have separate facilities, and a healthy and encouraging work environment has been identified as productive measures to ensure better outcomes and treatment of migrants.

## **c. Registration**

Adequate and detailed information about migrants allows PSCs to determine if they have the facilities necessary to accommodate the needs of migrants and separate them accordingly and in a manner that ensures safety. Registration is equally important to ensuring that migrant cases are recorded in the state system and these cases are processed by bureaucratic procedure as the law stipulates which will eventually reach an outcome.<sup>119</sup> Finally, registration is also critical to uncover any underlying health conditions, traumas, or other particularities which require attention and specialized treatment by PSC staff.<sup>120</sup> Religious identity may also determine what food options need to be available and when.

## **d. Language and Communication**

Proper registration and subsequent treatment of migrants is contingent on having clear communication between PSC staff and migrants. Independent interpreters must be

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<sup>117</sup> Kalhan, 'Rethinking Immigration Detention'.

<sup>118</sup> Puthooppambal, Ahlberg, and Bjerneld, "'It Is a Thin Line to Walk On'".

<sup>119</sup> Lego, 'Making Refugees (Dis)Appear'.

<sup>120</sup> United Nations High Commissioner for Refugees, 'UNHCR Detention Guidelines'.

available to ensure that a migrant understands their rights and is comfortable with sharing information.<sup>121</sup> While some centers have previously relied on other detainees to translate, this violates breaches of confidentiality and may put people in uncomfortable or even dangerous situations.<sup>122</sup> It is crucial that migrants can communicate not just with PSC staff but also with medical professionals and the legal counsel that they are afforded by law.<sup>123</sup> Migrants should also have the ability to regularly contact family and/or friends either in person or digitally. These communications should be private and family members should not be afraid to contact the detained family for fear of repercussions.<sup>124</sup>

#### **e. Transparency and Oversight**

Research has shown that transparency and oversight lead to better performance outcomes in protecting human rights at migrant detention centers.<sup>125</sup> This oversight, however, does not always need to come from the state. Consultations with NGOs, researchers, and the media have also been shown to be beneficial not just for migrants but also for PSCs. For instance, the Swedish model of migration detention has been lauded as an excellent benchmark where collaboration with NGO actors who were better trained to deal with sensitive issues lead to better treatment, better publicity, and longer retention of state contracts.<sup>126</sup>

#### **f. Accountability and Due Diligence**

Promoting human rights in the context of migrant detention requires due diligence and accountability on part of the responsible PSC. Besides external oversight, firms also need to create their own internal mechanisms to ensure that compliance with these practices is being adhered to. One technological solution is to place cameras in common areas, which instantly allows for transparency and oversight.<sup>127</sup> These cameras, however, should never be placed inside or pointing towards private quarters. Moreover, there needs to be a formal internal complaint mechanism that is accessible to both employees and detainees that is independent and ensures no retaliation.<sup>128</sup> One model for this is the creation of an ethical

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<sup>121</sup> International Organisation for Migration (IOM), 'International Standards on Immigration Detention and Non-Custodial Measures'.

<sup>122</sup> International Organisation for Migration (IOM).

<sup>123</sup> International Organisation for Migration (IOM).

<sup>124</sup> International Organisation for Migration (IOM).

<sup>125</sup> Detention Watch Network and National Immigrant Justice Center, 'Using ICE Contracts and Inspections to End Abusive Detention. An Advocacy and Organizing Toolkit'.

<sup>126</sup> Migrationsverket, 'Utbyggnaden av förvaringsplatser pågår – i Flen öppnas nya platser i maj'.

<sup>127</sup> Law, 'Stripping Away Invisibility'.

<sup>128</sup> Davitti, 'Beyond the Governance Gap'.

board that includes state and NGO actors as well as PSC representatives which have a clearly defined procedure.<sup>129</sup> While PSCs may initially be hesitant about such a model which may expose them and their employees to review, these checks and balances can be negotiated at the start of a contract and can be in the interest of both parties by preserving the public's trust and thereby also preserving the entire industry from backlashes.

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<sup>129</sup> Sthanki, 'Deconstructing Detention'.

# III. Methodology

After having reviewed the existing literature, the present section turns to the research process leading up to this report in more detail. The process was structured as follows: after agreeing on the terms of reference of the project with ICoCA at the end of March, an inception phase ensued, during which the relevant literature was reviewed, and the methodology of the research project was defined in a first mark-up. It was determined that the research project would consist of analyzing the relevant academic as well as gray literature and conducting and analyzing qualitative, semi-structured interviews. This section first considers the approach the research team has taken to the literature it has engaged with (1.), then briefly explains why the idea of sending out a questionnaire was discarded (2.), and then turns to the planning, conducting, and evaluating of the qualitative interviews (3.).

## 1. Engaging with the Literature

Scholarly literature serves to locate academic, intersubjectively verifiable literature on the topic upon which further research or a legal assessment can build. It is comprised of monographs, including dissertations, articles in collective works, and articles in peer-reviewed journals. Gray literature makes an important contribution to overviews of the field of practice to be addressed and contributes examples for best practices. Primary sources such as newspaper articles or PSCs' websites provide information on concrete facts and events such as the presence of a PSC in a specific country or the services it offers. They can also help in finding applicable law and making legal assessments. The research team understands the reference towards literature as a continuous process that was not constrained only to the inception phase of the ARP. Instead, the findings of the interviews must always be read together with and analyzed against the backdrop of pre-existing research on the matter. The recommendations developed as part of the project equally are the result of an amalgamation of original research findings and reviewed literature. Since the literature review had revealed that little is known about migration management by PSCs in the 'Global South', it was decided to focus on this area in the interviews.

## 2. Elaborating a Questionnaire

The idea of creating and sending out a questionnaire to potential persons of interest to get a better impression of potentially relevant issues before conducting the interviews, as well as to identify possible interviewees, was discarded in the inception phase of the project.

Given the sensitive nature of the topic, waiting for sufficient feedback on the questionnaire would have taken too much time, taking into account the limited project duration.

### **3. Doing Qualitative Interviews**

This research project has aspired to foster an in-depth understanding of the effects PSCs have on people subject to migration management. It has done so by generating qualitative interviews through conducting interviews with (1) ICoCA membership (particularly NGO representatives and PSCs managers)<sup>130</sup> and (2) academia, with particular regard to research being done at the Graduate Institute. The team has also interviewed (3) private security guards and other individuals working in the field (for example journalists, aid workers, members of civil society organizations having a watchdog function or are otherwise concerned with PSCs, and individuals personally affected by migration management by PSCs). In doing so, the team (1) has sought to gain a general understanding of the topics at issue, (2) has attempted to gain a more comprehensive picture of where PSCs deal with people in vulnerable contexts, and (3) has deepened their knowledge on a number of factors relating to the occurrence of human rights violations at the intersection of migration management and private security. This way, the current state of affairs concerning PSCs' involvement in migration management could be mapped, the geographic variance of the implication of PSCs in migration management was elucidated, and best practices for migration management by PSCs were developed. The following sections give an overview of several practical aspects surrounding the interviews. In particular, they discuss considerations regarding the format of the interviews (3.a.), the research ethics and positionality of the researchers (3.b.), the process of conducting interviews (3.c.), and the method employed to analyze them (3.d.).

#### **a. Preliminary Considerations**

The team considers the interviews, particularly with those interviewees having first-hand experience in the context of migration management and/or private security, to be a form of 'remote fieldwork'.<sup>131</sup> As fieldwork can be defined as "acquiring information, using any set of appropriate data collection techniques, for qualitative, quantitative, or experi-

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<sup>130</sup> In this context, it is important to note that the focus on the different ICoCA stakeholder groups skews the research findings in that it can be assumed that ICoCA members are inclined to believe that incremental improvement in the sector is a promising path forward. At the same time, only interviewing PSC managers whose companies are ICoCA members offers only a biased sample of PSCs, as ICoCA membership requires certification (ICoCA Articles of Association, art. 3) and thus excludes PSCs engaging in particularly problematic practices.

<sup>131</sup> Irgil *et al.*, 'Field Research', 1498.



mental analysis through embedded research”,<sup>132</sup> it need not necessarily take place physically in the context that is being studied. Indeed, digital means offer the ability to “embed ourselves in other contexts from a distance” – what matters is thus the nature of the research project, not the locale.<sup>133</sup> Fieldwork is effective *inter alia* when there is a lack of publicly available data sources for the topic,<sup>134</sup> such as it is presently with the involvement of PSCs in migration management.<sup>135</sup> Remote fieldwork conducted through video internet technologies presents challenges such as dropped calls and pauses, inaudible segments, inability to read body language and nonverbal cues, and loss of intimacy compared to traditional in-person interviews.<sup>136</sup> Also, the team is aware that in the search for interviewees, there was a certain sampling bias towards individuals who have the necessary resources to take part in video interviews.<sup>137</sup> The technical challenges, however, were largely overcome by ensuring a stable internet connection, finding a quiet room without distractions, slowing down and clarifying speech, openness to repeat answers and questions, and paying close attention to facial expressions.<sup>138</sup> Video interviews may even have proved advantageous as interviewees might have felt more comfortable in their own spaces..<sup>139</sup> This might have been particularly helpful for participants who are shy or introverted.<sup>140</sup> The online format might also have encouraged people to be more honest.<sup>141</sup>

The interview questions were determined building on the results of the literature review in the inception phase of the project and in consultation with ICoCA. Like this, ICoCA’s research interests could best be understood, and the team could profit from ICoCA’s experience in conducting similar research projects. As regards the format of the interviews, the team was faced with a trade-off: in the case of topics on which little is known, the interviewer often does not yet know what to ask.<sup>142</sup> It is therefore advisable to ask rather broad and open questions that provide a comprehensive picture of the matter under investigation.<sup>143</sup> On the other hand, conducting interviews in a more conversational manner can lead to in-

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<sup>132</sup> Irgil *et al.*, 1500.

<sup>133</sup> Irgil *et al.*, 1499.

<sup>134</sup> Irgil *et al.*, 1500.

<sup>135</sup> See *supra* IV.3.d.

<sup>136</sup> Seitz, ‘Pixilated Partnerships, Overcoming Obstacles in Qualitative Interviews via Skype’.

<sup>137</sup> Cf. Irgil *et al.*, ‘Field Research’, 1513.

<sup>138</sup> Cf. Seitz, ‘Pixilated Partnerships, Overcoming Obstacles in Qualitative Interviews via Skype’.

<sup>139</sup> Cf. Seitz, 230.

<sup>140</sup> Cf. Seitz, 232.

<sup>141</sup> Cf. Seitz, 232.

<sup>142</sup> Cf. Leech, ‘Techniques for Semistructured Interviews’, 665.

<sup>143</sup> Aberbach and Rockman, ‘Conducting and Coding Elite Interviews’, 674.

consistencies between different interviews, making it difficult to compare the questions and thus to code and/or analyze them.<sup>144</sup> It also renders these tasks time-consuming.<sup>145</sup> Such interviews are therefore better suited for giving insights than for testing hypotheses.<sup>146</sup> On the other hand, however, more open-ended questions and a more natural conversation increases the validity of the answers obtained because it allows the interviewees to respond to the question as they see fit.<sup>147</sup> Finally, more open-ended questions are more thought-provoking and thus provoke more in-depth responses.<sup>148</sup> Since the topic of the present research project has largely been unexplored, the team considered it advisable to approach many of its sub-aspects with questions that are as open as possible. To bring this in line with an efficient analysis of the interviews, the team decided on conducting semi-structured interviews.

#### **b. Positionality and Research Ethics**

Throughout the research process, and especially in the planning and execution of the interviews, the team made an effort to be aware of its positionality. This is based on the conviction that the social-historical-political location of researchers influences their orientations, which implies that they are not separate from the social processes they study.<sup>149</sup> Analytically, positionality can be broken down into three aspects:<sup>150</sup> Firstly, locating oneself about the research subject, which means acknowledging personal positions that have the potential to influence the research, such as (unconscious) racial bias.

The second aspect of positionality refers to locating oneself about the participants, which implies considering how one views themselves as well as how others oneself, while at the same time acknowledging that as individuals one may not be fully aware of how oneself and others have constructed their identities. In the present case, it might be of relevance that all members of the research team have migration experience themselves, but neither made any contact with PSCs while being subject to migration management (cases of airport security exempted) nor previously interacted with PSCs in a professional capacity. While all researchers on the team are white and cisgender, they come from different parts of the

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<sup>144</sup> Aberbach and Rockman, 674; Leech, 'Techniques for Semistructured Interviews', 665.

<sup>145</sup> Aberbach and Rockman, 'Conducting and Coding Elite Interviews', 674.

<sup>146</sup> Leech, 'Techniques for Semistructured Interviews', 665.

<sup>147</sup> Aberbach and Rockman, 'Conducting and Coding Elite Interviews', 674.

<sup>148</sup> Aberbach and Rockman, 674.

<sup>149</sup> Holmes, 'Researcher Positionality', 3.

<sup>150</sup> Holmes, 2–3 with further references.

globe and several of them define themselves as being of more than one nationality. Due to the broad range of interviews conducted, with some interviewees from the 'Global North', others from the 'Global South', some researchers, some practitioners, this has certainly placed the team on different points of the continuum between being insider and outsider<sup>151</sup> to a specific research context which may have at times facilitated interviews (for example because the team was regarded as 'one of us' or because the team was considered an objective outsider) or hampered them (because the researchers were considered as too involved and therefore biased, or as outsiders who could not be fully trusted).<sup>152</sup> In this context it must also be noted that the team, in reaching out to the interviewees, stated that it was from the Geneva Graduate Institute and conducting a research project in partnership with ICoCA. In some cases, ICoCA directly contacted potential interviewees and asked whether they would be willing to be interviewed. In both cases, the preexisting conceptions about ICoCA and the Geneva Graduate Institute might have had an influence on whether the interviewees agreed to be interviewed and how they decided to present themselves in the interviews.

The third aspect of positionality refers to locating oneself in the research context, which relates to acknowledging that research will be influenced by oneself and the own perception of the research context. One potential bias could have been that towards the beginning of the project, all members of the research team were rather skeptical of whether the involvement of PSCs in migration management is desirable at all, with some members of the team viewing the issue more through a human rights perspective and others more through the lens of individual PSCs. At the same time, all members of the team have been convinced of the possibility to improve problematic aspects of the issue through incremental change. This position has also been revealed to (possible) interviewees when they enquired about the motivation for the research.

The research ethics applied in this project rest on the premise that the participation of vulnerable persons in research requires special protection.<sup>153</sup> Thus, special care was taken not to cause any harm to the interviewees, that is not to leave them in a worse position than

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<sup>151</sup> On this, see Christensen and Dahl, 'Rethinking Research Dichotomies'; Mercer, 'The Challenges of Insider Research in Educational Institutions'.

<sup>152</sup> For an overview of the advantages and disadvantages of insider/outsider positions, see Holmes, 'Researcher Positionality', 6 with further references.

<sup>153</sup> Shaw, 'Review into the Welfare in Detention of Vulnerable Persons', 3.

in which they were found.<sup>154</sup> To conform to this principle, only individuals who had been affected by migration management in the past but were no longer affected, for example people who had been in detention but were no longer so, were interviewed. Another principle required ensuring the informed consent of interviewees both in terms of the aims of the project as well as how their data would be used and shared. The team also considered it vital to acknowledge the need for anonymity unless this was explicitly waived.<sup>155</sup>

### **c. Conducting the Interviews**

As to the practical aspect of the interviews, the team created an Excel spreadsheet listing possible interviewees, the source through which they were found, and their contact details. The contact process and the responsibilities for conducting the interview were also recorded in it.

Before starting to conduct interviews, the team members educated themselves practically by participating as observers in an interview conducted by ICoCA staff members and reviewed the pertinent scientific literature.<sup>156</sup> The interviews were always conducted with at least two members of the research team present. One of the researchers took the role of the interviewer, the other the one of the notetaker. However, the notetaker would be free to jump in and ask questions during the interview as well and would explicitly be asked by the interviewer towards the end of the interview if they had any additional questions. The interviews always began by greeting the interviewee and briefly explaining the project.<sup>157</sup> At this point, interviewees were reassured that their identities would not be revealed.<sup>158</sup> Generally, the interviews would not be used to ask for information that was available elsewhere to avoid wasting time or leaving the impression with the interviewees that the interviewers were ill-prepared or expected the interviewees to do their ‘homework’ for them.<sup>159</sup> For most questions, there were prompts prepared for follow-up questions to make the interviewee think of certain aspects of a topic.<sup>160</sup> However, care was taken to never put anything into the interviewees’ mouths.<sup>161</sup>

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<sup>154</sup> Woliver, ‘Ethical Dilemmas in Personal Interviewing’, 677.

<sup>155</sup> Woliver, 678; cf. Irgil et al., ‘Field Research’, 1512.

<sup>156</sup> E.g. Leech, ‘Techniques for Semistructured Interviews’.

<sup>157</sup> Cf. Leech, 666.

<sup>158</sup> Cf. Leech, 666.

<sup>159</sup> Cf. Leech, 666.

<sup>160</sup> Cf. Leech, 667.

<sup>161</sup> Cf. Leech, 668.

The interview questions were subdivided into the topics “mapping the industry”, “identifying problems” (including the role of PSCs in alleviating or mitigating these and the question of who would be particularly affected by abuse), questions about procurement and competition as well as about the role of technology, and “identifying best practices”, including on complaints mechanisms and remedies. If time permitted, questions would also be asked about the role of third parties (states, investors, civil society) in human rights compliance.<sup>162</sup>

The questions would be adapted to the specific interviewees and their positionality, with some questions being left out and some additional questions being asked as circumstances required. At the end of the interview, it would always be asked whether there was anyone the interviewee would recommend the research team speak to.<sup>163</sup> This ‘snowball sampling’ proved central to the recruitment of interviewees.<sup>164</sup> Overall, between July and October 2022, the team conducted 18 interviews (see Table 1). 17 interviewees were conducted online, one in person. Of all interviewees, eight were exclusively involved with the topic from an academic point of view while one former prisoner and two managers contributed a perspective of personally involved individuals. This brings with it the danger of giving too much weight to the academic perspective on the topic and to findings which are not generalizable, which in turn would reduce the reliability of the findings. Overall, however, ten interviewees have been able to contribute first-hand experience on the topic which they collected in their various roles, mostly as an NGO or IO worker, which means that this report is being fed by a multitude of practitioners’ perspectives. Moreover, by comparing and weighing the different perspectives in the findings section (IV.), the research team is confident to have adequately hedged the risks associated with the somewhat skewed distribution of interviewees.

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<sup>162</sup> For the exact questionnaire used in the interviews, see *infra* Annex: Interview Questionnaire.

<sup>163</sup> Cf. Woliver, ‘Ethical Dilemmas in Personal Interviewing’, 678.

<sup>164</sup> Cf. Irgil *et al.*, ‘Field Research’, 1505.

Interviewee number	Focus country/region	Background
1	Venezuela	Researcher / former NGO worker
2	Bangladesh	NGO worker
3	Greece	International Organization worker
4	Mexico	Researcher
5	Nigeria	NGO worker
6	Argentina	Researcher
7	Peru	Former government official
8	South Africa	Researcher
9	Bangladesh	PSC manager
10	Mediterranean	Researcher
11	N/A	Researcher
12	Greece	NGO worker
13	Australia/Manus Island	Former detainee
14	Mediterranean	Researcher
15	Australia/Manus Island	Former PSC manager
16	N/A	Researcher
17	United Kingdom/Greece	Researcher
18	Global	NGO worker

*Table 1: Overview of interviewees*

#### **d. Evaluating the Data and Refining the Analytical Framework**

As for the post-treatment of the interviews, the team decided that a full transcription of the interviews was not needed but that a consultation of the recording together with the notes taken by the note taker was sufficient to identify, categorize, and analyze the themes and tendencies that appeared in the interviews. The team shared all notes immediately after the interviews and regularly exchanged on what themes had emerged during the inter-

views.<sup>165</sup> During the interview phase, the team also met with ICoCA several times to discuss progress. After having conducted the first six interviews, the team informed ICoCA that the prevalence of PSC involvement in migration management in the ‘Global South’ seemed relatively low.<sup>166</sup> After further corroborating this finding, it was decided together with ICoCA to abandon this focus and to further concentrate on a comprehensive mapping. In this conceptual framework, the cross-geographical data generated on different contexts, including on different places of the ‘Global South’, and the more detailed data related to the regional Australian and Mediterranean contexts would engage in critical dialogue with each other, thus lending a higher degree of intersubjective validity to the findings. The analysis of the findings is thus not about investigating whether certain phenomena occur in geographically delimited spaces or not, but about identifying, differentiating, and contextualizing recurring themes that have emerged transversally in different interviews.

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<sup>165</sup> Cf. Aberbach and Rockman, ‘Conducting and Coding Elite Interviews’, 675.

<sup>166</sup> See *infra* IV.1..

# IV. Findings

This section presents and analyzes the findings from the 18 interviews conducted with different informants between July and October 2022. It is categorized along key themes which emerged from the interviews, namely, the apparent absence of PSC involvement in migration management in the ‘Global South’ (1.), the vulnerability of certain groups of migrants (0.), the management of PSC employees (4.), questions of procurement and competition (5.), interactions of PSCs involved in migration management with third parties (0.), the issue of organized crime (6.), and lastly a number of other themes which either surfaced in the interviews without being discussed prominently in the literature or which are being discussed prominently in the literature but did not play a major role in the interviews (7.).

## 1. Private Security Involvement in Migration Management in the ‘Global South’

While there is abundant evidence of PSCs in the ‘Global South’ occupying various roles, there are only minimal traces that they operate in migration management specifically.<sup>167</sup> These hints can be found in the literature<sup>168</sup>, media<sup>169</sup>, and even to some extent the interviews<sup>170</sup> but are nonetheless not enough at this stage to conduct a thorough systematic analysis that would fit the aims of the present report. This general lack of information on PSCs operating in migration in the does not necessarily indicate a complete absence of their occurrence but instead reflects the lack of transparency or deliberate opaqueness of some political and governance systems of the ‘Global South’ (a.). However, to a certain extent it can indeed be explained through policies being applied in the ‘Global South’ which are less reliant on migration management by PSCs (b.).

### a. Lack of Transparency or Deliberate Opaqueness Surrounding PSCs in the ‘Global South’

One driving reason behind the lack of transparency or deliberate opaqueness of some political and governance systems of the ‘South’ is the way the ‘North’ is operationalized in this report. It mostly includes consolidated democracies which by their nature have more robust checks and balances both through power sharing among different state institutions and through an external ‘fourth branch’ of independent media with ample investigative re-

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<sup>167</sup> Kinosian and Bosworth, ‘Security for Sale’.

<sup>168</sup> Hiropoulos, ‘Migration and Detention in South Africa’; Berg and Howell, ‘The Private Security Complex and Its Regulation in Africa’.

<sup>169</sup> Nast, ‘The Secretive Prisons That Keep Migrants Out of Europe’.

<sup>170</sup> Interviewee 4, Researcher on Mexico; Interviewee 1, Researcher on and former NGO worker in Venezuela.



sources and freedoms.<sup>171</sup> Both intra-governmental checks and balances and awareness raising by the media and civil society, have elevated issues around migration management to the level of international concern.<sup>172</sup> Furthermore, democratic elections place additional pressure on incumbent governments by way of competing parties looking to take their place by uncovering abuses and making them public.<sup>173</sup> A clear example of these dynamics at play is the international outcry about former US President Trump's immigration policy which separated children from mothers and placed them in detention centers. This outcry mobilized Trump's political opponents and sparked interest among the masses.<sup>174</sup> The media reacted and dedicated more journalists and budget allocations to investigations around this policy. Eventually it became widely known that many of these centers were operated by private security companies.<sup>175</sup> This instance showed a clear relationship between democratic governance, independent media, and bringing transparency to government abuses and policies including migration management and the PSCs to whom these operations are delegated.<sup>176</sup> Interestingly, many detention centers operated by PSCs were already in existence since before Trump's predecessor Barack Obama's term,<sup>177</sup> indicating that increased politicization may have had an effect on the mechanism of public pressure forcing transparency about PSCs in migration management.

The mechanism of public pressure translating to media and government investigations is not as likely to occur in places which lack government accountability, independent media, and free public opinion.<sup>178</sup> In countries with autocratic regimes, fragile political systems, and illiberal democracies, information about abuses and the operational details about government policy and management is less accessible.<sup>179</sup> For a meaningful study on PSCs operating in migration management in these countries, it is thus necessary to have the level of resources that enable an extensive multi-layered investigation at both the government and on-the-ground level.

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<sup>171</sup> Hollyer, Rosendorff, and Vreeland, 'Democracy and Transparency'.

<sup>172</sup> Balkin, 'How Mass Media Simulate Political Transparency'.

<sup>173</sup> Berliner, 'The Political Origins of Transparency'.

<sup>174</sup> ABC News, 'Global Outcry from US Allies Grows against Trump Border Policy'.

<sup>175</sup> Burnett, 'Immigrant Detention For Profit Faces Resistance After Big Expansion Under Trump'.

<sup>176</sup> Okeahalam, 'Corporate Governance and Disclosure in Africa'; Michener, 'Assessing Freedom of Information in Latin America a Decade Later'; Adu, 'The Paradox of the Right to Information Law in Africa'; Cloete and Auriacombe, 'Governance and Transparency in South Africa'.

<sup>177</sup> Reed, 'How Trump Inherited His Expanding Detention System'.

<sup>178</sup> Hollyer, Rosendorff, and Vreeland, 'Democracy and Transparency'; Kim and O'Neill, 'Transparent Motives'; Rumbul, 'Developing Transparency through Digital Means?'

<sup>179</sup> Hollyer, Rosendorff, and Vreeland, 'Democracy and Transparency'; Kim and O'Neill, 'Transparent Motives'; Rumbul, 'Developing Transparency through Digital Means?'

## **b. Reasons for the Lesser Prevalence of PSCs in the ‘Global South’**

Yet not all countries in the ‘Global South’ fit the characteristics of weak checks and balances, government accountability, and independent media. Indeed, the policies around migration management in some parts of the ‘Global South’ simply differ from the ones in the ‘North’. As the interviewees in interview 18 highlighted, the approach to migration management in South America is one of regularization, not detention. South America is, according to these interviewees, the only part of the world where migration detention sees (on a very low level) a decreasing trend. According to the interviewees, this is due to two reasons. First, because historically, South America has had very little migration compared to the rest of the world. More generally, it could, therefore, be argued that the relative lack of immigrants or even negative net migration in some countries, such as in Venezuela, Laos, Haiti, Congo, and Nigeria,<sup>180</sup> reduces the demand on the state to manage migrants and thus the need for contracting PSCs.<sup>181</sup> The second argument cited by the interviewees was that due to strong laws, policies and their implementation, accompanied by pressure from civil society, immigration detention and comparable restrictive policies could not be implemented on a larger scale.<sup>182</sup> Thus, less immigration and the minimized level of securitization and regulation do not demand the intense management that justifies the contracting of PSCs.<sup>183</sup>

Another explanation heard in the interviews for the lack of PSCs in migration management was that border management is to many governments in the ‘Global South’ considered an issue with high relevance for the state’s sovereignty which is unlikely to be delegated to a private entity.<sup>184</sup> One common reason given for this is the lack of confidence in the state or the ruling party’s power. The government’s fear of losing an integral part of its sovereignty through administration of its borders restricted the ability of PSCs to be involved in this domain.

The final reason given for the relative lack of PSCs involvement in many public services, even beyond migration management, is one of economics. For one, countries in the ‘South’ have on average smaller GDPs than those in the ‘North’. Many administrations in the ‘South’ prioritize poverty reduction, fighting corruption, and combatting internal violence but sel-

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<sup>180</sup> United Nations, Department of Economic and Social Affairs, Population Division, ‘World Population Prospects 2022’.

<sup>181</sup> Interviewee 6, Researcher on Argentina.

<sup>182</sup> Interviewees 18, NGO advocating against immigration detention.

<sup>183</sup> Interviewee 7, Former government official in Peru; Interviewee 6, Researcher on Argentina.

<sup>184</sup> Interviewee 6, Researcher on Argentina; Interviewee 7, Former government official in Peru; Interviewee 2, NGO Worker in Bangladesh; Interviewee 8, Researcher on South Africa; Interviewee 4, Researcher on Mexico.

dom mention curbing illegal immigration, although agreements between transit countries and the US and EU may be turning the tide on this.<sup>185</sup> Still for now the hiring of PSCs is considered to most countries in the ‘Global South’ an unnecessary luxury.<sup>186</sup> This is particularly compared to the marginal cost of employing domestic government workers and in some cases military personnel about which governments have more leveraging power to decide on cheaper salaries and can retain more control over.<sup>187</sup> Furthermore, as *Interviewee 6* from Argentina described, many states in Latin America, reacting to a legacy of foreign intervention and neoliberal policies imposed on them by the US, have nationalized certain industries and embody a collective weariness towards the privatization of certain sectors. Socialist movements have risen and fallen across Latin America in the last decades and continue to proliferate, all with an inherent distrust of privatization and neoliberalism which inevitably leads to the lower frequency of private actors in a key industry such as security.<sup>188</sup>

Overall, these insights give weight to the argument that PSCs are less involved in migration in the ‘Global South’ although it does not eliminate their existence. There certainly are some actors. However, they may be hidden from view or inaccessible without dedicated teams on the ground investigating their existence.

## 2. Vulnerability

Throughout this research, it was found that the people who were subject to the most abuse sometimes varied based on the region in which they were. Academic research identifies several groups which could be more vulnerable to facing abuse in these settings. While there are findings on specific groups that are particularly at risk of abuse, several interviewees responded with the idea that the people detained in migration centers are “vulnerable by default”<sup>189</sup> and anybody could be subject to abuse in these settings.<sup>190</sup> *Interviewee 11*, a researcher focused on South Africa said, “the more vulnerable you are, the more likely you are to be abused by a private company or somebody who has power over you.” Having one’s liberty controlled by another actor potentially makes one more at risk of abuse. This might

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<sup>185</sup> Adepoju, Van Noorloos, and Zoomers, ‘Europe’s Migration Agreements with Migrant-Sending Countries in the Global South’; Kramek, ‘Bilateral Maritime Counter-Drug and Immigrant Interdiction Agreements’.

<sup>186</sup> Interviewee 2, NGO Worker in Bangladesh.

<sup>187</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela.

<sup>188</sup> Grugel, *Governance after Neoliberalism in Latin America*; Rowland, ‘How Left a Turn?’; Villalón, ‘Neoliberalism, Corruption, and Legacies of Contention’.

<sup>189</sup> Interviewee 10, Researcher on the Mediterranean; Interviewee 11, Researcher on PSCs.

<sup>190</sup> Interviewee 9, PSC manager in Bangladesh.

be exacerbated by aggressive conceptions of masculinity, anti-immigrant discourses, and the rise of far-right ideologies.<sup>191</sup> Furthermore, many of the individuals do not want to be detained in the facilities they find themselves in and resort to protest. *Interviewee 15* shed light on these protests and described instances where migrants would sew their lips shut or self-harm in protest of the Australian government's policies.<sup>192</sup> Not a single interviewee mentioned the existence of a formal complaint mechanism for migrants living in these centers. *Interviewee 17*, a researcher on Greece and the UK, went on to share concerns about the facilities as they are designed similarly to prisons, and suggested a change in the setup of these centers.<sup>193</sup> Some groups, which are listed below, are at an increased risk of abuse. In the next subsections, they will be discussed in detail, namely LGBTQ+ individuals (a.), women (b.), children (c.), single men (d.), and individuals experiencing (mental) health issues (e.).

#### **a. LGBTQ+ Vulnerability**

Many migrants often flee their place of origin because they are in fear of persecution based on their identity or sexual orientation.<sup>194</sup> LGBTQ+ people are at risk of more discrimination, as well as abuse and exploitation due to their non-conforming with heterosexual norms.<sup>195</sup> In fact, LGBTQ+ individuals in immigration detention have been found to be at a heightened risk of sexual exploitation and abuse in comparison to heterosexual detainees.<sup>196</sup> *Interviewee 1*, an NGO worker in Venezuela, mentioned a gap in government protection measures for the LGBTQ+ community and that stronger measures are necessary to provide adequate care. In an International Detention Coalition Position Paper, the authors write that

*the general lack of gender recognition, combined with the realities of sexually segregated detention facilities, creates a situation in which transgender and intersex migrants are particularly at risk of suffering severe psychological, physical, and sexual harm. Such abuses exacerbate depression, anxiety and other psychological trauma experienced by LGBTI persons during their migration journey*<sup>197</sup>

LGBTQ+ individuals in migration contexts often suffer from lack of access to medical atten-

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<sup>191</sup> Interviewee 17, Researcher on Greece and the U.K.

<sup>192</sup> Interviewee 15, Former Manager of PSC Operation - Manus Island.

<sup>193</sup> Interviewee 17, Researcher on Greece and the U.K.

<sup>194</sup> Jansen, 'Introduction'.

<sup>195</sup> Frew, Fausch, and Cox, 'IDC POSITION PAPER: LGBTI Persons in Immigration Detention'.

<sup>196</sup> Frew, Fausch, and Cox, 10.

<sup>197</sup> Frew, Fausch, and Cox, 9.

tion and appropriate care.<sup>198</sup> On Lesbos, *Interviewee 3*, shared that they were not aware of the LGBTQ+ community suffering any additional abuse in the Moria camp. While this may not represent the entire experience of everyone in the camp, it is important to understand that different groups may be additionally at risk in different contexts.

### **b. Women Vulnerability**

In most contexts, women are regarded as those most at risk of abuse in various points throughout the migration process, which is evidenced by women being mentioned in five of the interviews in the context of vulnerability.<sup>199</sup> Women are also already viewed as the most vulnerable, and thus, are sometimes given preferential treatment in the migrant detention centers regarding access to asylum processing.<sup>200</sup> Nevertheless, they may still be at a heightened risk to face abuse and violence due to their gender. *Interviewee 1*, a former NGO worker in Venezuela, said that “women always suffer more in every kind of crisis.” While this may be a bleak interpretation of the unbearable conditions that women in these contexts face, there is a lack of protective government measures in place. Women often embark from their place of origin due to gender violence, but are exposed to abuse, especially sexual violence, on their journey to European countries, such as Italy and Greece.<sup>201</sup> Along the various checkpoints on the Mexican border, women are often coerced into performing sexual services to pass through.<sup>202</sup>

Due to many of the guards being men, researchers have found that there is a level of aggressive masculinity that is perpetrated in these settings, and it is difficult to eradicate without a conscious discussion.<sup>203</sup> *Interviewee 10* said that it was about time women begin to supervise other women. The IOM Handbook also states that women should be guarded by other women.<sup>204</sup> *Interviewee 12*, a former NGO worker in Lesbos, shared that women in the refugee camps they had worked in were often uncomfortable using the washrooms at night because of a climate of gender-based violence (GBV).

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<sup>198</sup> Frew, Fausch, and Cox, 15–16.

<sup>199</sup> *Interviewee 1*, Researcher on and former NGO worker in Venezuela; *Interviewee 3*, Former International Organization Worker in Greece; *Interviewee 4*, Researcher on Mexico; *Interviewee 10*, Researcher on the Mediterranean; *Interviewee 11*, Researcher on PSCs.

<sup>200</sup> Alberti, ‘Across the Borders of Lesbos’.

<sup>201</sup> Esposito, Matos, and Bosworth, ‘Gender, Vulnerability and Everyday Resistance in Immigration Detention’.

<sup>202</sup> *Interviewee 4*, Researcher on Mexico.

<sup>203</sup> *Interviewee 17*, Researcher on Greece and the U.K.

<sup>204</sup> International Organisation for Migration (IOM), ‘International Standards on Immigration Detention and Non-Custodial Measures’.

Many migrants living in the centers share that it was risky for women and girls to go to the bathroom or leave their shelters at all, due to the Greek government not adequately addressing the dangers women face.<sup>205</sup> The bathrooms in Moria do not have working locks and poor lighting, affecting women's privacy and feelings of safety.<sup>206</sup> It is therefore imperative that adequate facilities are provided to ensure the safety of migrants living in these centers.

Women in many of the centers in the Mediterranean do not receive appropriate medical care. A woman detained in a Portuguese facility did not receive the necessary care for her pregnancy-related issues.<sup>207</sup> Moreover, pregnant women in Moria also did not have appropriate access to prenatal care.<sup>208</sup> In Moria, women lack access to basic medical care. Furthermore, there are no protection systems for GBV: in several instances of reported cases of GBV, the authorities working in the camp dismissed it.<sup>209</sup>

Women have a need for appropriate menstrual health care and in the Moria camp, sanitary products were not readily accessible.<sup>210</sup> Lastly, there is also an element of discomfort when recounting the traumas causing women to leave their place of origin and request asylum. Women often feel humiliated sharing their reasons for leaving and stories of genital mutilation to management staff, often male strangers sent by the government.<sup>211</sup> *Interviewee 17* emphasized that the gender make-up of the employees at migration detention centers is becoming increasingly important.<sup>212</sup>

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<sup>205</sup> 'Greece: Camp Conditions Endanger Women, Girls'.

<sup>206</sup> 'Greece: Camp Conditions Endanger Women, Girls'.

<sup>207</sup> Esposito, Matos, and Bosworth, 'Gender, Vulnerability and Everyday Resistance in Immigration Detention', 13.

<sup>208</sup> 'Greece: Camp Conditions Endanger Women, Girls'.

<sup>209</sup> 'Greece: Camp Conditions Endanger Women, Girls'.

<sup>210</sup> 'Greece: Camp Conditions Endanger Women, Girls'.

<sup>211</sup> Curry, 'Female Vulnerability and Trauma in Detention'.

<sup>212</sup> Interviewee 17, Researcher on Greece and the U.K.

## Case: Manus Island

Manus Island as a facility for migration detention by the Australian government has shown to have many issues. The facility was established as an offshore processing center for asylum seekers in 2001 by the Australian Government in an agreement with Papua New Guinea.<sup>213</sup> It was used to process asylum seekers that arrived in Australia and were detained until their status was determined.<sup>214</sup> G4S then undertook management operations through a contract worth \$244 million<sup>215</sup> from February 2013 until March 2014. During this time, G4S was accused of numerous human rights violations by the international community.<sup>216</sup> Many of the asylum seekers also suffered from intense mental health issues while on the island causing many to attempt suicide due to a lack of access to proper care.<sup>217</sup>

In 2014, a riot broke out and led to injury of approximately 77 people and the death of one person.<sup>218</sup> Both the Australian Government and the Papua New Guinean Government led independent investigations to identify the cause of the riot.<sup>219</sup> In 2022, a former Manus Island guard with G4S reached a settlement with Australia in a case in which she argued that as a result of the 2014 riots she had suffered severe mental health traumas and that the government had failed to ensure a safe working environment.<sup>220</sup> Furthermore, G4S argues that government failed to listen to requests made by personnel prior to the riots.<sup>221</sup> At the same time, the government argued that G4S was responsible.<sup>222</sup> Nevertheless, the events that transpired on Manus Island have clearly led to traumas suffered by many actors involved.

### c. Children Vulnerability

Because of their young age, children are susceptible to abuse due to the hierarchies of power that exist. Three of the interviewees mentioned children being more likely to suffer abuse at the hands of guards.<sup>223</sup> Because they are more vulnerable, they are more likely to be used.<sup>224</sup> Especially when children migrate unaccompanied, they are more vulnerable to abuse as they may have nobody to protect them from the perpetrator.

Another issue regarding children in migrant detention centers is that many children in the Manus Island context deliberately “masqueraded as single adult males”.<sup>225</sup> In these instances, children are more at risk of not receiving the care they need. The IOM outlines that unaccompanied children should only be detained if absolutely necessary and never for long

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<sup>213</sup> ‘G4S in Papua New Guinea’.

<sup>214</sup> ‘G4S in Papua New Guinea’.

<sup>215</sup> Wilkins and Butler, ‘Manus Operator G4S Paid No 2012 Tax but Got a Refund’.

<sup>216</sup> ‘G4S in Papua New Guinea’.

<sup>217</sup> Human Rights Watch, ‘Australia’.

<sup>218</sup> Davidson and Laughland, ‘Manus Island’.

<sup>219</sup> Cullen and Woodley, ‘Two Probes Underway into Manus Island Unrest’.

<sup>220</sup> Pearson and Cooper, ‘Former Manus Island Guard Reaches Settlement with G4S, Commonwealth over 2014 Riots’.

<sup>221</sup> ‘Commonwealth Government Failures Led to Deadly Riot at Manus Island, Court Hears’.

<sup>222</sup> Pearson and Cooper, ‘Former Manus Island Guard Reaches Settlement with G4S, Commonwealth over 2014 Riots’.

<sup>223</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela; Interviewee 10, Researcher on the Mediterranean; Interviewee 11, Researcher on PSCs.

<sup>224</sup> Interviewee 11, Researcher on PSCs.

<sup>225</sup> Interviewee 15, Former Manager of PSC Operation - Manus Island.

periods of time.<sup>226</sup> There are several obligations of state governments regarding the protection of children that are often not followed.<sup>227</sup> The fact that many unaccompanied children are often subject to exploitation and child trafficking indicates a lack of adequate protection systems.<sup>228</sup> Additionally, many of the unaccompanied children are subject to the care of transportation and security personnel who are not trained in providing childcare,<sup>229</sup> which may then lead to inadequate care. Indeed, *Interviewee 15*, a former manager of a PSC operation on Manus Island, said that more welfare qualifications were necessary – specifically on child protection. The Code prohibits various forms of child labor.<sup>230</sup> Many efforts are often to prevent unaccompanied children from being exploited and ensure that they can gain access to the necessities they need. The children often face discrimination and are denied necessities, such as food, shelter health services, and education.<sup>231</sup> Addressing the needs of children in these contexts is critical as they are often alone and without the appropriate attention may endure additional trauma.

#### **d. Single Men Vulnerability**

The idea of single men being a group that could face vulnerability in migration detention facilities was echoed by several interviewees working in the Mediterranean region. *Interviewee 3*, who worked at Moria camp in Lesbos, said that

*in these spaces, we neglect the space of single men in their 20s. They are stigmatized as problem causing. They get the shit beat out of them for doing nothing wrong and if they actually do anything wrong, God help them.*

While the international community will first look to aid those who are typically subject and known to face abuse, there are certain instances where an unexpected group may be subject to vulnerability. *Interviewee 17* pointed out that “some populations have no one championing for them”.<sup>232</sup> Besides the quote from *Interviewee 3* set out above, *Interviewee 12*, an NGO worker also located in Lesbos, told two stories about men being physically abused by being kicked in the head and beaten to the ground without any accountability of

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<sup>226</sup> International Organisation for Migration (IOM), ‘International Standards on Immigration Detention and Non-Custodial Measures’.

<sup>227</sup> Radjenovic, ‘Vulnerability of Unaccompanied and Separated Child Migrants’.

<sup>228</sup> Radjenovic.

<sup>229</sup> Dickerson, “‘A Private Security Company Is Detaining Migrant Children at Hotels.’”, 2020.

<sup>230</sup> ‘The Code’.

<sup>231</sup> Radjenovic, ‘Vulnerability of Unaccompanied and Separated Child Migrants’.

<sup>232</sup> Interviewee 17, Researcher on Greece and the U.K.



the guards. There is a clear issue of physical violence that is being perpetrated by management and guards in the camps. When looking at the Code, one will see that the use of force is to be avoided by PSC personnel and should only be used when “strictly necessary”.<sup>233</sup> Overall, there seems to be a tendency of aggression towards the men living in the camps of Greece.<sup>234</sup> The aggressive behavior of the guards towards single men could be a result of power dynamics being exploited. Since young single men are usually not considered a vulnerable group, there are no mechanisms in place to protect them and they are, therefore, often overlooked.

#### **e. (Mental) Health Issues**

Same as any other sample of people, those living in refugee camps and detention centers may face mental health issues. In their case, these might be propagated by the journey they have embarked on, or their experience in their place of origin. Migrants with severe mental health issues may require a range of specialized services from counseling to medicines, to specific diets, to other considerations such as trauma from loud sounds.<sup>235</sup> *Interviewee 17* argued that for these reasons, people with mental health issues should not be detained at all. *Interviewee 13*, a former detainee on Manus Island, explained that other detainees most notably faced PTSD and that many of the people there were suicidal. They went on to tell us that unfortunately many of the guards were not trained in responding to people dealing with mental health crisis and people that are suicidal, which may have led to more incidents.<sup>236</sup> *Interviewee 12*, an NGO worker in Lesbos, also said that many of the guards were not prepared or ‘well-equipped’ to deal with the intense situation of the camps. There was nobody to go to in Moria to talk and receive adequate psychological care.<sup>237</sup> Fortunately, many of the NGOs as well as the UNHCR provide training services for the security forces working on the island of Lesbos to be able to deal with substance abuse and panic attacks, but attendance is low as participation is not mandatory.<sup>238</sup> In Italy, many migration detention centers use local NGOs to provide mental health support.<sup>239</sup>

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<sup>233</sup> ‘The Code’.

<sup>234</sup> *Interviewee 12*, NGO Worker in Greece; *Interviewee 3*, Former International Organization Worker in Greece.

<sup>235</sup> International Organisation for Migration (IOM), ‘International Standards on Immigration Detention and Non-Custodial Measures’.

<sup>236</sup> *Interviewee 13*, Former Detainee on Manus Island.

<sup>237</sup> ‘Greece: Camp Conditions Endanger Women, Girls’.

<sup>238</sup> *Interviewee 12*, NGO Worker in Greece.

<sup>239</sup> *Interviewee 17*, Researcher on Greece and the U.K.

### 3. Employee Management

Every single interview conducted for this report cited in some form or another that hiring the correct people is at the core of addressing many human rights issues in the migration management done by PSCs. People in the end are the ones who commit the abuses. Still, as *Interviewee 15*, a former PSC manager on Manus Island highlighted, it was rare to find malicious employees intent on causing harm. Instead, it is important to implement structural checks and clear standard operating procedures (SOPs) that could be put in place to mitigate such abuses in the first place. Across the diverse set of stakeholders represented in the interviews, all segments have affirmed that personnel management is integral to ensuring human rights compliance. Personnel and employee management can be roughly broken down into four main areas where targeted action can be taken to improve the overall system, namely identification of human resource needs (a.), the recruitment and vetting procedures (b.), training and assessment (c.), and working conditions (d.).

#### a. Identification of Human Resource Needs

The identification of the correct personnel with the required skillset is a key prerequisite to effective migration management and adherence to human rights standards.<sup>240</sup> As *Interviewee 6*, a researcher from Argentina, stated:

*Placing military personnel trained for combat in a situation where they are dealing fundamentally with a social issue rather than a conflict situation is a recipe for disaster.*

Clearly understanding the context and ensuring a comprehensive needs assessment is a starting principle to ensure the personnel of a PSC is properly equipped with the tools and skills to deliver on a contract.<sup>241</sup> Cases of human rights abuses detailed in interviews 1, 3, 4, 9, and 10 equally attest that at least one of the contributing causes of the violation was a mismatch between the skills of the personnel involved and the job's demands. It is easy to place blame on an individual's malicious intent and dismiss the problem as a one-off. However, it is now clear that there are structural factors that can be engineered to reduce the occurrence of malicious intent turning into actual abuse. One such manner this is done is by ensuring the effective matching of personnel skills with the position's demands.<sup>242</sup> An effec-

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<sup>240</sup> Rossett, *Training Needs Assessment*.

<sup>241</sup> Kaufman and English, *Needs Assessment*.

<sup>242</sup> Lu *et al.*, 'Does Work Engagement Increase Person–Job Fit?'

tive needs assessment thus plays a vital role in understanding how to acquire the right tools and people to produce the expected results in that particular environment. Analyzing all the interviews holistically highlights one thing clearly: context matters. As *Interviewee 10*, a researcher working on the Mediterranean put it:

*There can be no assessment of ‘Mediterranean’ migration management as a homogenous case. The Spain-Morocco transit route, Libya-Italy route, or Greece-Turkey route each present distinct and complex challenges and contexts which require different tools, skills, and thus personnel.*

Acknowledging the particularity of each scenario is a universal and generalizable first step to conceptually frame an effective needs assessment. Acknowledging the centrality of context implies that subsequent recommendations pertaining to the content of a needs assessment survey are subject to such particularities. Indicative particularities are analyzed in the three archetypal models of transit routes discussed later in this section.

The interviews have identified one other recurrent problem which could be mitigated through a well-thought-out needs assessment: There is a tendency for contracts to be granted to security companies which implicitly require a broader range of services than is traditionally associated with private security companies.<sup>243</sup> There is a wide assortment of components and personnel which are necessary to proficiently operate a detention facility beyond the scope of providing security. Before accepting these contracts companies need to accurately assess which services are required, acknowledge their capabilities, and decide whether they can effectively take up these roles. For instance, a detention facility, requires medical personnel both physical and mental, kitchen staff, sanitation staff, and communication liaisons at a minimum.<sup>244</sup> PSCs need to determine whether their personnel have the skills to provide these services in-house. If not, subcontracting other competent entities in the respective fields is required. The interviews did not provide a consensus on whether in-house services or subcontracting provides better quality except for in the case of medical professionals where hiring an independent entity has been cited as an important best practice. As *Interviewee 10* put it, “expecting migrants who were abused by guards to also seek medical treatment from the same guards, or their colleagues, is inhumane”.

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<sup>243</sup> Interviewee 6, Researcher on Argentina; Interviewee 5, NGO Worker in Nigeria.

<sup>244</sup> Kalhan, ‘Rethinking Immigration Detention’.

While at least some medical services should be subcontracted from an independent organization, for the rest, balancing the cost-quality tradeoff is something that must be thoroughly explored in the needs assessment. If a needs assessment uncovers that the contract terms cannot guarantee quality services PSCs should reject such contracts. Engaging in the mindset that if one does not accept the contract another company will accept it only serves to produce a race to the bottom that taints the reputation of all PSCs. States already use PSCs in some contexts to attempt to shield responsibility and accountability by “outsourcing their abuses”.<sup>245</sup> PSCs should not find comfort in such shielding because when such violations are uncovered, and public pressure erupts, PSCs will share in the blame and possibly also the liability. The difference is a state will survive regardless of international lawsuits or public anger but for PSCs, it is a much larger threat to their very existence in the market. *Interviewee 16* speculated that public pressure was a major factor that pushed G4S out of the market in the United Kingdom.

One of the most fundamental aspects of a needs assessment is understanding the type of context in which the PSC is expected to operate in. The interviews signaled at least three archetypes of transit routes that have distinct associated problems and thus different requirements which may come up in a needs assessment. The first are transit routes which are embedded within the routes of drug trafficking or pass in the territories of violent non-state groups associated with drug trafficking. This would include routes such as Central America-Mexico-US, Morocco-Spain, Venezuela-Colombia, and Myanmar-Bangladesh.<sup>246</sup> The involvement of drugs and weapons inherently makes these environments more complex and dangerous from a security perspective and thus demands specific personnel needs. These routes also require added demand for medical personnel and in particular psychiatric personnel as a result of increased risk of violence, drug abuse, and trauma.<sup>247</sup> These tense situations which are catalysts for vulnerability therefore also require added attention on soft skills such as sensitized communication and compassion for all employees who deal face to face with migrants stuck in vulnerable predicaments.

A second transit route type is one that involves political refugees and asylum seekers. This would include routes such as Libya-Italy, Turkey-Greece, Zimbabwe-South Africa, and

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<sup>245</sup> Interviewee 10, Researcher on the Mediterranean.

<sup>246</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela, 1; Interviewee 4, Researcher on Mexico; Interviewee 9, PSC manager in Bangladesh.

<sup>247</sup> Forin and Healy, ‘Trafficking along Migration Routes to Europe - Bridging the Gap between Migration, Asylum and Anti-Trafficking’.

Myanmar-Bangladesh.<sup>248</sup> Some routes do not fit the perfect archetype but rather overlap with other archetypes and thus the categories are not mutually exclusive. This increases the complexity of such routes exponentially and therefore demands even greater needs. Routes that carry mostly political refugees and asylum seekers but are not part of the global drug trade or in territories where non-state armed groups are present reduce the need for security officers specialized in ‘hard’ security skills and increase the need for those with ‘soft’ skills.<sup>249</sup> Communication skills, interpersonal skills, and psychiatric skills become more valuable. In routes such as Turkey-Greece, where there is a perceived risk of extremist ideology or terrorism, screening and situational awareness skills are critical. Arabic language skills, geopolitical knowledge, and a criminology background then become more desirable. In situations where there is a mix of political refugees and drug trafficking the personnel of both archetypes are required, thus these are much more demanding contracts. These instances make identification officers increasingly important. Assessing each migrant individually and granting them adequate treatment rather than treating them as a monolith because of potential threats from a few is a critical factor in promoting better standards.<sup>250</sup>

Finally, the third archetype deduced from the interviews that provide further particular needs is routes which cross bodies of water such as the Turkey-Greece and Libya-Italy routes. Operating at sea has clear material needs and technological needs which differ from operating on land. These needs also translate into distinct human resource requirements for each respective case. Land routes tend to be more straightforward and accessible for PSC employees, while maritime routes require additional skills to ensure respect for human rights particular to operating at sea. Apart from the obvious need for boat captains and operators, there is also an increased need for awareness of CPR and other life-saving skills related to potential mass casualty situations resulting from capsized ships.<sup>251</sup> In addition, technology plays a bigger role at sea where increasingly drones are being used to locate smaller vessels not seen by radar.<sup>252</sup> Drone operators and other auxiliary devices and their operators are additional elements that should be identified in a needs assessment as well as the rele-

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<sup>248</sup> Interviewee 10, Researcher on the Mediterranean; Interviewee 3, Former International Organization Worker in Greece; Interviewee 8, Researcher on South Africa; Interviewee 1, Researcher on and former NGO worker in Venezuela; Interviewee 9, PSC manager in Bangladesh.

<sup>249</sup> Sevindik, *For Security Personnel, OFFICER SURVIVAL SKILLS, 2020*; Weiss, *Personality Assessment in Police Psychology*.

<sup>250</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela.

<sup>251</sup> Calleja, ‘A Critical Evaluation of the Level of Knowledge in Health and Safety among Security Personnel’.

<sup>252</sup> StateWatch, ‘Border Surveillance, Drones and Militarisation of the Mediterranean’; Interviewee 10, Researcher on the Mediterranean.

vant human rights practices that apply.<sup>253</sup> For instance, recordings of mass casualty situations captured by drones are should not be disseminated with identifiable victims.<sup>254</sup> Those responding to such incidents may also have to make split second decisions about who to save and how to handle the recovering of corpses around children to reduce the potential of trauma.<sup>255</sup>

The archetypes developed in this section are not exhaustive, but they provide a possible framework for understanding, assessing, comparing, and responding to the needs of different migration contexts with regards to ensuring human rights compliance.

#### **b. Recruitment and Vetting**

Once a needs assessment is properly conducted and the type of transit route is defined, it should become clear whether the PSC needs to recruit further personnel to execute its contract effectively. Regardless of whether additional personnel are needed, certain issues were identified in the interviews which could be prevented with effective recruitment and vetting procedure starting from the very first employee hired.

The needs assessment should have clarified the skills and expertise demanded by a particular contract. In essence, these skills can be broken down into two categories: soft skills and hard skills. Hard skills are those which are gained through experience, training, and hands-on practice. These are trainable and include operating a drone, manning a weapon, language skills, or identifying a threat. Soft skills on the other hand come more innate to many but at varying levels and are much harder to train although not impossible.<sup>256</sup> These are interpersonal skills such as communication, teamwork, adaptability, and emotional intelligence. For the purpose of migration management, the interviewees consistently made the point that soft skills should be ascribed great weight. As *Interviewee 1* stated:

*These are people and families that PSCs are dealing with, not security threats and combatants. Oftentimes they have trauma and require patience.*

Recruitment officers should thus gear recruitment practices and interview questions to probe for these skills. Psychometric tests are common in many fields and should form a central element of recruitment of employees who will be on the frontlines dealing with people

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<sup>253</sup> Orav, 'Search and Rescue Efforts for Mediterranean Migrants'.

<sup>254</sup> Orav.

<sup>255</sup> Orav.

<sup>256</sup> Laker and Powell, 'The Differences between Hard and Soft Skills and Their Relative Impact on Training Transfer'.

in tense environments.<sup>257</sup> Not everyone will be best suited to deal with people at the forefront but that does not mean they are not useful. Personnel management is also about knowing what people to put where and understanding not just the needs of the environment as highlighted in the needs assessment but also understanding the skills of your personnel and placing them in the correct role.<sup>258</sup>

Another critical best practice identified in interviews 4, 6, 8, and 17 is the proper vetting of personnel. This comes in conjunction with the needs assessment. In particular, once it is determined that a specific vulnerable group is being dealt with, it is important to assess whether the views of a potential employee on the said vulnerable group could influence the candidate's behavior towards that group before putting them in a position of power. This was identified in South Africa where discriminatory practices exist against Zimbabwean immigrants.<sup>259</sup> To vet potential employees with a simple question on one's views on immigrants would not be an effective way to root out discrimination as it is unlikely a candidate would willingly reveal such a view. Recruitment officers therefore should uncover indirect ways to extract such information. Vetting public social media profiles for obvious red flags is one way to do this, but other practices should be developed according to the context by for instance using scenario trainings.<sup>260</sup> Hiring supervising officers from abroad or increasing employee diversity has also been cited as an effective strategy to combat discrimination.<sup>261</sup> At the same time *Interviewee 15* stressed that recruiting from abroad still requires the same rigorous vetting as when done domestically and standards should not be compromised to fit quotas. The interviewee recalled that employees hired from Papua New Guinea in Australian detention centers were a critical segment of the center's employee base but sometimes were not properly vetted and thus lacked the required skills and training which presented a potential threat. *Interviewee 17* also made the point that the gender composition of employees is critical. According to this interviewee women employees are essential to combat "aggressive masculinity" which is often brought on by employees with military backgrounds who have been trained in dealing with threats and responding decisively

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<sup>257</sup> Jenkins, 'Companies' Use of Psychometric Testing and the Changing Demand for Skills: A Review of the Literature'.

<sup>258</sup> Harun and Zainuddin, 'Performance of Border Management Personnel and Its Security Implications in Northern Nigerian Borders: A Pilot Study for Reliability and Validity of Instruments'; Chizhevskaya, Zemenkova, and Mayss, 'Directions to Improve Effectiveness of Management of Management of the Industry Company Personnel'.

<sup>259</sup> Interviewee 8, Researcher on South Africa.

<sup>260</sup> Bojarski et al., "Awareness-Raising Seminars in the Areas of Non-Discrimination and Equality Targeted at Civil Society Organisations".

<sup>261</sup> Felblum and Lipnic, 'Select Task Force on the Study of Harassment in the Workplace'; International Labour Office, *Transforming Enterprises through Diversity and Inclusion*.

A recurring theme mentioned in nine interviews is that of former military and police officers being prevalent among PSC employees.<sup>262</sup> Interviews 1 and 4 to 9 identified them as a source of concern as they often are trained in the management of violence and threats and thus are more prone to aggressive tactics and dehumanization. *Interviewee 4* indicated that the presence of military generals and police officers among the ranks or even owning PSCs helps to shield them from accountability. As identified in the needs assessment for the purpose of migration management,<sup>263</sup> soft skills dominate much of the needs for migration management. That is not to say that there are no roles to be played by those trained in combat and security, particularly in the transit routes where threats ranging from drug smuggling to extremism may emerge among migrants. The key is thus allocating the human resources in the correct manner so that those with the appropriate skills exercise them in the appropriate roles. *Interviewee 2* also elaborated that the military and police know how to deal with tense environments where situational awareness, a soft skill, is essential. *Interviewee 2* also stated that the right former military and police officers know how to instill discipline in the PSC team which is pivotal to ensuring human rights adherence in positions of power. Ultimately former military and police officials thus present a potential danger or a potential benefit further entrenching the importance of effective vetting.

A final issue identified by *Interviewees 4, 5, 8, and 17* is of attracting the right talent. This issue is fundamentally linked to working conditions and the negotiations of contracts between PSCs and states. The PSC industry needs to strengthen their negotiating position with states by emphasizing the relationship between national security and valuing the employees that protect it at the borders. The persistence of corruption, bribes, and abuses which occur in many areas where cost reduction has led to suboptimal wages for security workers is leverage for PSCs to attempt to negotiate better contracts and thus higher wages for their employees. As *Interviewee 9* stated, “if you pay a security guard less than a rickshaw driver, how can you expect to attract serious people?”

There is a clear link found between better wages and reduction of corruption as well as acquisition of more talent and PSCs need to communicate it effectively to the procurers.<sup>264</sup>

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<sup>262</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela; Interviewee 2, NGO Worker in Bangladesh; Interviewee 4, Researcher on Mexico; Interviewee 5, NGO Worker in Nigeria; Interviewee 7, Former government official in Peru; Interviewee 6, Researcher on Argentina; Interviewee 8, Researcher on South Africa; Interviewee 9, PSC manager in Bangladesh; Interviewee 13, Former Detainee on Manus Island.

<sup>263</sup> See *supra* IV.3.a

<sup>264</sup> Puthoopparambil, Ahlberg, and Bjerneld, “It Is a Thin Line to Walk On”.



This needs to be clear not just externally but also internally. If negotiating better contracts serves only to increase profits for executives, problems will persist, and the market will respond by devaluing the work of PSCs or reintegrating their service into the public domain again. This was cited by *Interviewee 17* as a driving force behind the abuses at Brook House immigration detention center at Gatwick Airport in the UK and a central reason why G4S was pushed out of the British market. Not many sectors run at such a clear risk of being replaced by state-run agencies such as the migration management sector. Moreover, at the same time these PSC operate in a high-risk environment with near-constant media and NGO attention. The stakes are high and thus attracting and retaining talent should be a priority. This is not solely the function of better wages. As *Interviewee 7* mentioned it is also about the respect that such a position carries in society. The interviewee described how in Peru all PSC employees are required to wear the same color uniforms for identification by officials. For entry-level surveillance officers, this means a brown uniform and has often been associated with a low paying job and thus is not taken as seriously. Details like having a respectable uniform have an effect on attracting people with high personal integrity. *Interviewee 17* affirmed this dynamic by asserting that for many of those hired by a PSC in the UK, this is their first professional job, and that hence, motivating these individuals with career development prospects and “pride in wearing the uniform” could be leveraged to inspire better work and retention of talent. Instead, currently almost all workers aspire to leave the sector for the public sector where wages are better and career progress is more assured, as *Interviewee 17* pointed out.

### c. Training and Assessment

Better training has been cited as a means to reduce human rights abuses by more than three quarters of those interviewed. But what does better training in the context of migration management mean? Training has in some instances been described as a formal onboarding procedure after a candidate is hired, during which they attend a period of courses, sometimes only theoretical, and then are put into the field.<sup>265</sup> This standard operating procedure has been found to not be as effective as recurrent training with integrated assessment.<sup>266</sup> Simply giving a prospective employee an initial theoretical course and at best a period of practical guidance and then putting them in the field as certified is not enough.

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<sup>265</sup> Interviewee 8, Researcher on South Africa; Interviewee 10, Researcher on the Mediterranean.

<sup>266</sup> Walsh, ‘Training Security Personnel’.

Across various sectors, the need for continual training and employee evaluation has been turned into standard practice to produce effective personnel and retain talent. For PSCs operating in such a high-risk environment this becomes even more indispensable. To enable proper training and evaluation there needs to be a development of key performance indicators (KPIs) derived from the needs assessment. These indicators should be clearly communicated to employees, so they understand what is expected of them. The development of the right KPIs and a clear framework for how to achieve them is crucial to effective personnel management and should be well understood by the employees.<sup>267</sup> Integrated into these KPIs must be a dimension related to the protection of human rights and adherence to the Code and standard operating procedures. This refinement of soft skills related to interacting with individuals should be reflected in the training. *Interviewee 13*, a former detainee on Manus Island stated:

*Too often employees are trained in how to operate a weapon or what to do in an emergency but are not trained on basic communication skills which are integral to the job.*

While hard skill development is important, soft skills must also be part of training especially since they are harder to train. *Interviewee 17* called attention to how much of the training material they have seen uses the language of security and terrorism conditioning employees to treat migrants as threats. Approaching situations through this lens may exacerbate tensions. *Interviewee 17* argued that some technical and use of force training can be sacrificed for de-escalation training, diversity training, and even history as a sense of history can help instill compassion and understanding. It has also been cited in both interviews 3 and 6 that relevant international law is seldomly trained effectively, sometimes only being read out once, or in some cases not taught at all. Furthermore, *Interviewees 1, 3, and 5* highlighted that many simply did not understand these laws even if read out to them. It is thus essential to creating a holistic training program that teaches international law not just in theory but also in practice through simulation and other interactive methods. By developing a framework and operating procedures, a PSC can also identify additional areas where training may be required. For instance, one basic SOP among PSCs is the drafting of incident reports after something occurs. This requires skills in narration and observation which could form the subject of a particular additional workshop or training. Continual training implies a

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<sup>267</sup>Kryshtanovych *et al.*, 'Assessment of the Effectiveness of Strategic Personnel Management of the Company'.

level of reflexivity at the administrative level and understanding the skill gap and strengths of employees to create tailored training when necessary.<sup>268</sup>

It is at the same time acknowledged that training comes at a cost. Still many free and low-cost resources and training materials exist which should be taken advantage of by PSCs.<sup>269</sup> *Interview 12* highlighted that the UNHRC and various other institutions, including ICoCA, offer human rights training both online and in person, but they rarely see high numbers of attendance. One reason stipulated by *Interviewee 18* is the general lack of knowledge and communication about such programs, but another important reason given by *Interviewee 12 and 17* is that they are not mandated. Making human rights training compulsory at least for the free online resources comes at little to no cost for PSCs and can produce immense cost saving down the line. As *Interviewee 3* stated:

*It is inexcusable for PSC employees to not understand simple legal principles like 'non-refoulement' with the abundance of free resources available at their fingertips.*

A final avenue to promote more frequent and more comprehensive training is to negotiate for states to subsidize such training as part of contracts. This way the state would have the assurance that the funds are going towards human rights enhancement, not company profits. Equally, the PSC can attempt to foster other partnerships or grant schemes from NGOs or other government agencies.

#### **d. Working Conditions**

Working conditions go beyond better wages.<sup>270</sup> *Interviewees 7, 5, and 17* explained how one way to improve working conditions and thus the acquisition of talent in the industry is to provide career advancement opportunities. If the job is treated as temporary with no possibility of progression employees will be less willing to follow all rules by the book because the incentives and risk structure are not skewed towards producing better outcomes.<sup>271</sup> If instead a career path is outlined with continued investment into the employees through training and skill development, then an incentive structure will emerge causing employees to treat their job more seriously. This then translates into better results. If a compa-

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<sup>268</sup> Walsh, 'Training Security Personnel'.

<sup>269</sup> HumanRights.com, 'Free Human Rights E-Course'; American Society for Industrial Security, *Private Security Officer Selection and Training Guideline*; Amnesty International, '6 Online Courses to Practice Human Rights'; DCAF and ICRC, 'Security and Human Rights Knowledge Hub'.

<sup>270</sup> See IV.3.b.

<sup>271</sup> Biesalski and Abecker, 'Integrated Processes and Tools for Personnel Development'.

ny does not value its employees, then the employees will not value their work, and when the employee's work is the protection of humans this dynamic becomes instrumental in respecting human rights.<sup>272</sup>

Another central aspect of improving working conditions starts from the administrative level. The importance of placing the right person for the job in the right role cannot be overstated. It not only provides better results but also is better for the employee's own mental and physical health which again provides better results.<sup>273</sup> Placing the right people with the right skills in the right job has the potential of creating a positive feedback loop on the welfare of not just the employees but also of the migrants they interact with.<sup>274</sup> This also includes ensuring that employees have the tools they need to succeed at their job. Frustration and cutting corners can have dire consequences in high-stress situations with vulnerable people.<sup>275</sup> Overstretching too few employees and overworking can lead to an oversight that leads to someone getting hurt. Adequate worker's rights from humane working hours to employee benefits, to the ability to join unions all have a positive correlation with improved conditions for workers and thus for migrants. As *Interviewee 4* put it:

*If your employees are in miserable positions, they will have little to no incentive to make sure that the migrants he manages are in a better condition than they are in. In fact, they will most likely take it out on the migrants.*

#### 4. Procurement and Competition

Throughout the interviews, seven interviewees shared their reluctance to companies profiting off migration.<sup>276</sup> According to one interviewee, PSCs are profiting from these issues when they should not be.<sup>277</sup> Because it is a for-profit enterprise, they will frequently cut as many costs as possible. The government is often willing to sacrifice accountability if it means paying the lowest amount possible. Negotiating with a state that, on the one hand, procures low-return high-risk contracts, but on the other hand, serves as the primary vehicle to im-

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<sup>272</sup> Kováčová and Vacková, 'Applying Innovative Trends in the Process of Higher Education Security Personnel in Order to Increase Efficiency'.

<sup>273</sup> Herrmann and Glaser, 'Work Characteristics and Psychosomatic Health Complaints of Private Security Personnel'.

<sup>274</sup> Boon and Biron, 'Temporal Issues in Person–Organization Fit, Person–Job Fit and Turnover'.

<sup>275</sup> Pattnaik, Pradhan, and Jena, 'Emotional Intelligence and Anxiety at Workplace'.

<sup>276</sup> Interviewee 3, Former International Organization Worker in Greece; Interviewee 10, Researcher on the Mediterranean; Interviewee 13, Former Detainee on Manus Island; Interviewee 16, Researcher on Migration; Interviewee 16; Interviewee 17, Researcher on Greece and the U.K.; Interviewees 18, NGO advocating against immigration detention.

<sup>277</sup> Interviewee 8, Researcher on South Africa.

plement better standards through regulation, is a difficult task. It requires greater collaboration among the PSC industry to create a consensus and strategy to raise standards thereby reducing their risk and increasing the values of their contracts. Developing lobbying bodies, partnerships with chambers of commerce, and relationships with competent authorities in government are avenues to combat the trend signaled in the interviews where too often the needs of the state cannot be met effectively with the given budgets.<sup>278</sup> Indeed, *Interviewee 8*, a researcher who focuses on South Africa, highlighted that the profit incentive attached to providing services in the context of migration management is a key problem, as cost cutting tends to occur and wages are made as low as possible.

An interviewee also said that there is a “lack of transparency when it comes to the operations.”<sup>279</sup> Contracts are often given to companies with little due diligence being done.<sup>280</sup> In the Greek case, *Interviewee 14* shared that there is an element of corruption, as contracts will often go to the politically connected firms and following the paper trail is difficult.<sup>281</sup> But, when asked about Bangladesh, *Interviewee 9*, a PSC manager located in the country, shared that there is an inherent institutional corruption that exists, which makes it difficult to establish oversight and licensing provisions due to the fierce competition among PSCs in the country. If the PSCs themselves do not want to attach licensing to their operations, it will only make it harder to ensure lack of corruption among competition. If the competition is fierce, companies are going to do what they can to ensure they obtain the contract with the government and receive their payout. *Interviewee 6*, a researcher working on Argentina, stated:

*corruption is prevalent throughout Latin America, so the idea is that PSCs are not a great alternative to the state because it is already hard to hold state institutions accountable.*

If state institutions are not held accountable, it is therefore more difficult to hold PSCs accountable. This is especially true when the private companies are being contracted by the state to carry out security. Finally, *Interviewee 4*, a researcher in Mexico, had a harsher take on the security sector as a whole and said that “everyone who is from the security sector, private or public, is corrupt”. This alludes to the problem that if nobody is taking steps to-

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<sup>278</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela; Interviewee 5, NGO Worker in Nigeria; Interviewee 2, NGO Worker in Bangladesh; Interviewee 6, Researcher on Argentina; Interviewee 3, Former International Organization Worker in Greece; Interviewee 8, Researcher on South Africa; Interviewee 13, Former Detainee on Manus Island.

<sup>279</sup> Interviewee 5, NGO Worker in Nigeria.

<sup>280</sup> Percy, ‘Paladin, Manus, and Private Security: A Treacherous History | Lowy Institute’.

<sup>281</sup> Interviewee 14, Reseracher on the Mediterranean.

wards accountability or transparency on human rights abuses in contexts of migration management, then it is unlikely that a private company will be the one to start, and risk losing contracts with the government as a result.

## 5. Interactions with Third Parties

The action of an external actor has the potential power to implement change in the private sector, specifically migration management. According to *Interviewee 4*, “international pressure is key”. Moreover, *Interviewee 10* noted that it was time for checks and balances in the system. Two actors, in particular, were credited by various interviewees with being able to achieve improvements by exerting pressure from outside. Namely, these were investors (a.) and NGOs (b.).

### a. Private Companies (Investors)

Within privately held companies, a lot of decision-making comes from investors. If shareholders are unhappy with certain actions of the company they are invested in, there is a larger incentive to implement change. *Interviewee 8* shared an account of a situation in Norway in 2018, where one of the biggest shareholders of G4S withdrew from the company when G4S was accused of bad labor practices, exploitation, and human trafficking in the Gulf. It was reported in the Financial Times that the investor was a large Norwegian oil fund which was among the top 20 G4S shareholders; the fund sold its shares in the company after the aforementioned abuses by G4S in the Middle East were reported.<sup>282</sup> Following this, the share price of G4S fell by 4%.<sup>283</sup> Clearly, it is possible for an investor to withdraw funding or sell their shares when they feel strongly enough about an issue. In contrast, *Interviewee 9*, a PSC manager in Bangladesh, noted that private investors in companies did not play a role in their local context. Therefore, the connection between investors and the companies in which they are invested may vary based on region, culture, and mindset.

### b. NGOs

Many non-governmental organizations operate in varying contexts throughout the world, including in migration management. Sometimes they have enough influence to seek change. They often work to flag abuse that is taking place and questioning the governments

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<sup>282</sup> Mooney and Plimmer, ‘Norway’s \$1tn Oil Fund to Sell G4S Shares after Ethical Review’.

<sup>283</sup> Mooney and Plimmer; ‘Norway Wealth Fund Is Shunning G4S over Human Rights Concerns’.

that allow this to take place.<sup>284</sup> For example, *Interviewee 3* said that many NGOs in Lesbos, including MSF, refused to operate in the camp to protest the presence of G4S, which resulted in the contract being terminated.<sup>285</sup> However, there are few NGOs operating in Lesbos.<sup>286</sup>

### Case: Moria

G4S was also responsible for security at the Moria refugee camp on the Greek island of Lesbos.<sup>287</sup> Designed for 2,800 people but housing up to 20,000, it was Europe's largest refugee camp until it burned down in September 2020.<sup>288</sup> The living conditions in the camp were considered to be extremely poor.<sup>289</sup>

G4S's activities in Moria included protecting the European Asylum Support Office (EASO) office there.<sup>290</sup> In June 2016, the Lawyers Association of Mitilini (Lesvos) raised allegations that EASO was using G4S to deny asylum seekers entry to areas of the camp where asylum applications could be filed, thus obstructing their asylum processes.<sup>291</sup> *Interviewee 3*, who had worked in the camp, described the actions of G4S thus:

*G4S literally beat up people. They were doing a lot more than pushing and shoving. There was physical abuse. With bare hands-on people's backs is the most frequent form of beating. Making people strip off their clothes, beating them while they are naked.*<sup>292</sup>

According to *Interviewee 3*, as a result of unrelenting criticism, G4S was stripped of responsibility for the security of the camp in 2017/18, but continued to be responsible for securing the EASO office.<sup>293</sup> G4S also delivers services in the Closed Controlled Access Center on the Greek island of Samos, which opened in 2021.<sup>294</sup>

*Interviewee 13*, a former detainee on Manus Island shared that only the Salvation Army and MSF were engaged and providing services to the people on the island. They acknowledged the lack of medical care, but did not address it themselves for fear of losing access to the island altogether for a breach of contract.<sup>295</sup> The former detainee shared that there was little improvement after the NGOs came and attempted to make things better by filing reports.<sup>296</sup> But, as pointed out by *Interviewee 14*, in some places “the efficacy of NGOs has been eroded due to a lack of trust from the local communities.”<sup>297</sup> Unfortunately, ac-

<sup>284</sup> Interviewee 8, Researcher on South Africa; Interviewee 2, NGO Worker in Bangladesh.

<sup>285</sup> See *infra* box ‘Case: Moria’.

<sup>286</sup> Interviewee 12, NGO Worker in Greece.

<sup>287</sup> Franck, ‘The Lesbos Refugee Crisis as Disaster Capitalism’, 199.

<sup>288</sup> The New York Times, ‘Fire Destroys Most of Europe’s Largest Refugee Camp, on Greek Island of Lesbos’.

<sup>289</sup> ‘The Worst Refugee Camp on Earth’; Deutsche Welle, ‘Hell on Earth — Greece’s Moria Refugee Camp and Its Tortured History’; BBC News, ‘Children “attempting Suicide” at Greek Refugee Camp’.

<sup>290</sup> The New Humanitarian, ‘New Security on Greek Islands Reduces Access’.

<sup>291</sup> The New Humanitarian.

<sup>292</sup> Interviewee 3, Former International Organization Worker in Greece.

<sup>293</sup> Interviewee 3.

<sup>294</sup> Al Jazeera, ‘Prisons in Paradise: Refugees Detentions in Greece Raise Alarm’.

<sup>295</sup> Interviewee 13, Former Detainee on Manus Island.

<sup>296</sup> Interviewee 13.

<sup>297</sup> Interviewee 14, Reseracher on the Mediterranean.



According to *Interviewee 5*, NGOs face a big challenge due to a lack of funding, which inhibits their ability to bring about positive change through their contracts with centers. In sharp contrast, *Interviewee 10* shared concerns regarding NGO involvement. According to this interviewee, NGOs do not have an interest to see strong changes on a fundamental level because the suffering they work to mitigate drives their business and work; without it, they would not need to exist.<sup>298</sup>

## 6. Migration, PSCs, and Organized Crime

Several interviewees<sup>299</sup> mentioned the involvement or heightened risk of involvement of PSC employees in organized crime in the context of migration management. Two mechanisms are conceivable which could explain this risk. The first one is that the position of power PSC employees are in may increase the likelihood of involvement in crimes.<sup>300</sup> Such crimes may take the form of human trafficking.<sup>301</sup> PSC employees have been known to be involved in such activity in as different places as Bosnia and Herzegovina<sup>302</sup>, Iraq<sup>303</sup>, and Sri Lanka<sup>304</sup>. *Interviewee 1* reported that at the Brazilian/Venezuelan border, human trafficking is intertwined with PSC activity. Even when PSC employees do not engage in such activities themselves, they may risk contributing to them when they deny victims of such practices access to legal remedies, for example by deporting them before they have had the chance to file a complaint with the competent authorities.<sup>305</sup>

The second mechanism is that because of their oftentimes precarious socioeconomic situation, migrants may be more likely to engage in criminal activities than the average of the population of the country they live in and implicate PSCs involved in migration management in their activities. As *Interviewee 9* put it for the case of Rohingya refugees in Bangladesh:

*So the biggest challenge for guards is to not get involved in the business of the refugees. The biggest money source for refugees is drug*

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<sup>298</sup> Interviewee 10, Researcher on the Mediterranean.

<sup>299</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela; Interviewee 7, Former government official in Peru; Interviewee 9, PSC manager in Bangladesh.

<sup>300</sup> Cole and Vermeltoft, *U.S. Government Contractors and Human Trafficking*, 106.

<sup>301</sup> Lethbridge, 'Privatisation of Migration and Refugee Services and Other Forms of State Disengagement', 39.

<sup>302</sup> Human Rights Watch, 'Hopes Betrayed', 62–68; Cole and Vermeltoft, *U.S. Government Contractors and Human Trafficking*; Simm, "'Above the Law'".

<sup>303</sup> Cole and Vermeltoft, *U.S. Government Contractors and Human Trafficking*.

<sup>304</sup> Gallagher, 'G4S Has Sacked an Employee Arrested over an International Human Trafficking Ring'.

<sup>305</sup> Cf. 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, 'Impact of the Use of Private Military and Security Services in Immigration and Border Management on the Protection of the Rights of All Migrants', para. 57.



*smuggling. These drugs are being shipped across the border every single day. The first thing the mafia does is bribe the security guards.*

The importance of the position of power PSC employees may be in for their involvement in organized crime buttresses the need for comprehensive and functional supervisory and reporting mechanisms.<sup>306</sup> If they are in place, PSCs can play an important role in combating the smuggling and trafficking of migrants.<sup>307</sup> In the context of migrants living in refugee camps, it is important to ensure their safety from human trafficking not only inside the camps, but also when they leave the camps. Moreover, addressing socioeconomic needs adequately, for example as regards the provision of food, clothing, or medicines, might prevent refugees from becoming involved in activities which expose them to a heightened risk of human trafficking.

The Code could go a long way in preventing and addressing human trafficking and other organized crime committed by PSC employees. It explicitly prohibits companies to engage in trafficking in person and obliges their personnel not to do so either.<sup>308</sup> PSCs also undertake to remain vigilant for all instances of trafficking in persons and, where discovered, report such instances to the competent authorities.<sup>309</sup> As the Code obligates member and affiliate companies to the Code to integrate it into it into all relevant elements of their operations, including their company policies and internal control and compliance systems,<sup>310</sup> it effectively bars PSC employees from engaging in human trafficking.

## **7. Further Findings**

This section is dedicated to findings which did not feature in the interviews as prominently as the literature review initially suggested they would. Encompassed in this section are critical topics such as accountability and oversight mechanisms (a.), Alternatives to Detention (ATD) (b.), and risks and opportunities brought on by emerging technology (c.), which, although identified as central topics around migration management, were only mentioned in few, if any, interviews. This gap between topics of perceived importance in the literature and those actually discussed by people on the ground is an important finding in itself.

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<sup>306</sup> See *supra* IV.3.c.

<sup>307</sup> Cf. Bisong and Knoll, 'Mapping Private Sector Engagement along the Migration Cycle', 11.

<sup>308</sup> 'The Code', para. 39.

<sup>309</sup> 'The Code', para. 39.

<sup>310</sup> 'The Code', para. 44.

Questions on technology, oversight structures, and ATD were explicitly asked for in the interviews.<sup>311</sup> Yet, in-depth discussions of any of these topics only occurred in two interviews<sup>312</sup> and most never even mentioned them. While the significance of these findings is subject to certain caveats due to the limited sample size of the interviews, it does point to a potential lack of awareness among practitioners surrounding these issues.

Another possible reason for gaps between the literature and interviews may be an inherent limitation of the interview methodology which would require a massive sample size to get an accurate reflection of all the possible issues identified in the literature. Translation services, for instance, were not mentioned as something that would be done by PSCs, with *Interviewee 3* going so far as to say that “[t]hey don’t provide translation services. In fact, they don’t provide any services that actually help people.” In the same vein, neither catering nor cleaning were explicitly mentioned by interviewees as being carried out by PSCs. Given that the literature does contain evidence about PSCs carrying out these services, this points to the limitations of interviews, with interviewees often being experts on one particular context but not necessarily on the landscape as such. While the research design has attempted to mitigate this issue by choosing interviewees from a variety of backgrounds and regions, the aforementioned examples show that even such a strategy has not fully remedied this caveat.

At the same time, certain topics surfaced which do not play a prominent role in the pertinent literature, such as the role of former military and police officers and the impact their professional record has on their handling of people in vulnerable contexts,<sup>313</sup> and the identification of young single men as a vulnerable group,<sup>314</sup> which speaks for the originality of the research conducted.

#### **a. Accountability and Oversight Mechanisms**

The research team had hoped to receive more detailed information on possible oversight and accountability mechanisms. Whereas 12 out of 18 interviewees constated a lack of accountability<sup>315</sup> (and no one explicitly said that accountability was not lacking), the topic

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<sup>311</sup> See *infra* Annex: Interview Questionnaire, questions 11, 13, 16.

<sup>312</sup> Interviewee 17, Researcher on Greece and the U.K.; Interviewees 18, NGO advocating against immigration detention.

<sup>313</sup> See *supra* IV.3.b.

<sup>314</sup> See *supra* IV.2.d.

<sup>315</sup> Interviewee 1, Researcher on and former NGO worker in Venezuela; Interviewee 2, NGO Worker in Bangladesh; Interviewee 3, Former International Organization Worker in Greece; Interviewee 4, Researcher on Mexico; Interviewee 5, NGO Worker in Nigeria; Interviewee 6, Researcher on Argentina; Interviewee 7, Former government official in Peru; Interviewee

was usually only discussed in a very general and occasionally even dismissive manner. For example, *Interviewees 3 and 12* limited themselves to saying that there was no accountability for violations by PSCs and *Interviewee 10* only offered the suggestion that PSCs should simply not bid for certain contracts. *Interviewee 16* went so far as to say that the success of PSCs in migration management was inherently “linked to the idea of states avoiding accountability”. On the other hand, *Interviewee 17* had diverse insights on oversight and accountability mechanisms on account that in the UK the researcher has observed complaint mechanisms existing in many centres that take the form of drop-off boxes which are periodically reviewed by independent monitoring boards. Still, the interviewee stated that such a system was flawed in that it did not account for the fact that some migrants may not have the necessary reading, writing, and language skills to file complaints. In that respect, the interviewee suggested that pictograms can be utilized to overcome this obstacle. Another important suggestion stemming from interview 17 was making such complaints and how they were dealt with public to both migrants and employees in the centre. To the interviewee, such a strategy would help build trust and efficiency. Lastly, *Interviewee 17* cited that some migration centres in the UK had visitor groups which consisted of the general public who dedicated some time to visit migrant detention centres to provide a range of services from helping families communicate to each other to providing food and counselling. One suggestion given to improve this given by the interviewee was to allow migrants to enter the detention centre beyond the visitation area which would effectively create layer of independent monitoring and accountability.

#### **b. Alternatives to Detention**

In interview 18, two activists working with an NGO involved in advocating against immigration detention held the view that despite measures to make migration detention more comfortable, the deprivation of liberty in detention centres on account of migratory status still constituted a human rights violation. As one of them said about a Swedish migration centre considered by the interviewees as having a comparably high standard of living: “a golden jail is still a jail, even if it is golden”.<sup>316</sup> Such a view that migration detention is a human rights violation in itself is supported in part by the IOM and UN guidelines cited in the

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10, Researcher on the Mediterranean; Interviewee 13, Former Detainee on Manus Island; Interviewee 16, Researcher on Migration; Interviewee 17, Researcher on Greece and the U.K.; Interviewees 18, NGO advocating against immigration detention.

<sup>316</sup> Interviewees 18, NGO advocating against immigration detention.

literature review which make the case that detention should only be used as a last alternative.<sup>317</sup> Interview 18 made clear that alternatives to detention need to be considered and prioritized. The interviewees cited that in this regard that South America is on the right track as compared to the rest of the world. In South America they contend that the norm is regularising rather than criminalizing migration. The example was given of Colombia where 10-year temporary permits are given to Venezuelan migrants which has led to a situation where the massive inflow of migrants is handled with less abuses than in other places in similar situations such as the US and EU – at least on part of the state and PSCs. Still, the interviewees warned that the discourse around ATD varies from region to region and a worrying trend is developing particularly around the discourse in the US where “alternatives to detention” are increasingly becoming “alternative forms of detention”. The interviewees described “alternative forms of detention” as the use of intrusive technology such as electronic tagging and periodic reporting which still deprive migrants of human rights such as privacy and freedom of movement.<sup>318</sup> Nevertheless, the interviewees recognized the need for pragmatism but asserted that none of these measures were a long-term solution that fully respected human rights. Understanding how to square this view with the national security interests exerted by states should be thoroughly researched by any PSC seeking to innovate the industry and find a better way to manage migration and respect human rights. As a solution, the interviewees in interview 18 highlighted advanced case management which would entail migrants living in their community under certain reporting obligations, which could be facilitated through the adequate use of technology.

### **c. Technology**

The suggestions offered by some interviews which revolve around the use of technology highlight that the increasing role technology is playing in migration management presents both risks and opportunities in regard to human rights protection. Looking holistically at all interviews conducted, most interviewees<sup>319</sup> seemed to have a pessimistic view of tech-

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<sup>317</sup> International Organisation for Migration (IOM), ‘Guidelines for Border Management and Detention Procedures Involving Migrants’; International Organisation for Migration (IOM), ‘International Standards on Immigration Detention and Non-Custodial Measures’; United Nations Network on Migration, International Detention Coalition, and Sweden, ‘Immigration Detention and Alternatives to Detention in the Asia-Pacific Region’.

<sup>318</sup> Edwards, ‘Back to Basics: The Right to Liberty and Security of Person and “Alternatives to Detention” of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants’.

<sup>319</sup> Interviewee 8, Researcher on South Africa, 8; Interviewee 10, Researcher on the Mediterranean, 10; Interviewee 12, NGO Worker in Greece, 12; Interviewee 15, Former Manager of PSC Operation - Manus Island, 15; Interviewee 17, Researcher on Greece and the U.K., 16.

nology, while some<sup>320</sup> saw positive aspects. One such silver lining mentioned in interviews 17 and 18 was the use of technology to more efficiently screen and process cases, reducing the time that migrants stay in ad hoc processing facilities which tend to have some of the biggest human rights violations. According to *Interviewee 18*, digitalization can help alleviate administrative burdens such as facilitating paperwork and meetings which can go a long way towards making a positive impact. Another positive application of digitalization can be seen by companies such as Boniği<sup>321</sup> which create a framework for data collection for detention officials to monitor key human rights metrics in order to track progress and identify problems. Nevertheless, positive applications can also have unexpected externalities. One example given by *Interviewee 17* was the use of smart prisons where migrants have badges which allows officials to track what facilities migrants use most, allowing for strategic planning and ensuring equitable distribution of food and other services. While done with positive intention, *Interviewee 17* made the point that when detainees made purchases in the cafeteria, the workers would only see their badge number appearing on the screen so they would refer to the detainees with their number rather than with their name.

One of the chief driving forces of pessimism about technology highlighted in interviews 8, 12, 14, 17, and 18 was that currently technology is being implemented in a vacuum of regulation. Particularly for technology companies whose products are used in the context of security but who do not experience the same scrutiny as security companies, there is an absence of regulation and guidelines. As technology use will increase in the future, due consideration should be paid to the emergence of such issues and how initiatives like the United Nations Guiding Principles on Business and Human Rights can be leveraged to mitigate them.<sup>322</sup>

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<sup>320</sup> Interviewee 2, NGO Worker in Bangladesh, 2; Interviewee 5, NGO Worker in Nigeria, 5; Interviewee 9, PSC manager in Bangladesh, 9.

<sup>321</sup> 'Boniği'.

<sup>322</sup> Davitti, 'Beyond the Governance Gap'.

# V. Recommendations for PSCs

## *Addressing Vulnerabilities*

- Ensure that all inhabitants of refugee camps can move freely within the camp without fear of violence of any form, including by adjusting lighting systems to facilitate access to sanitary areas at night.
- Migrants should have easy access to a variety of health professionals aimed at ensuring all groups receive the treatment they need; this includes robust mental health services.
- Provide prompt and comprehensive support for victims of sexual abuse, exploitation, and trafficking.

## *Identifying what Is Required to Deliver Responsible Security*

- Prior to accepting a contract, identify what different types of services it requires (security, medical, psychiatric, catering, legal).
- Analyze the operating context and security environment.
- Identify the roles and skills needed to effectively fulfill the contract (including the operation of machinery and associated technology).
- Develop an understanding of the capacity of current employees and acknowledge existing skill gaps, if any.
- Recognize whether the budget awarded is sufficient to cover necessary expenditures as identified in the previous steps.

## *Recruiting Suitable Employees*

- Identify hard and soft skills, including through psychometric tests, when recruiting employees and place employees in positions reflecting those skills.
- Place particular emphasis on soft skills of those being recruited to deal with migrants in vulnerable situations, families, and children.
- Recruit a diverse workforce, including women and LGBTQ+ individuals, so the characteristics of at least some personnel reflects the migrants they are dealing with.
- Refrain from hiring employees who have been convicted of a hate crime directed against a specific ethnic, religious, social, political, or other group.

## *Equipping Employees with the Necessary Skills*

- Training should include both hard and soft skills, including intercultural awareness and communication, as well as knowledge on the pertinent legal provisions and on identifying and addressing situations of human trafficking.
- Training should be based on the skill gaps identified in the needs assessment.
- Skills should not only be trained theoretically but also in practice through simulations, for example by making use of free and low-cost resources and training offered by various organizations such as UNHCR.
- Training should not only be conducted at initial recruitment but should be recurrent. Progress should be tracked with relevant and clearly communicated KPIs which serve to guide further training.

### *Creating Quality Working Conditions*

- Employees should be given opportunities for career development, including by providing further training and skill development.
- Employee salaries should reflect the operating environment and offset negative incentives prevalent in some contexts. Higher salaries disincentivize bribes and abuse in areas where vulnerabilities can be exploited such as in regions with active drug routes.
- Abide by international and national standards on employee working hours and consider reduced or split shifts for those working in tense environments.

### *Leveraging the Potential of Technology and Digitalisation*

- Use technology for more efficient case management and administrative process, as well as for inter-agency communication.
- Make use of existing technological means such as platforms and applications tracking living conditions in migrant camps and detention facilities to identify and remedy shortcomings.
- Leverage the potential of technology and digitalization in implementing less intrusive and restrictive alternatives to detention, such as digital reporting mechanisms.
- Consider negative externalities caused by well-meaning technology applications by conducting periodic reviews and surveys on the impacts of such systems.

### *Improving Complaints and Accountability Mechanisms*

- Ensure that an efficient system of submitting anonymous complaints to an independent review body is in place and functional.
- Ensure that complaints mechanisms are accessible to all. This should include migrants who are illiterate, for example by including pictograms on complaint forms.
- Make complaints and responses to complaints public and accessible unless explicitly specified by the complaining party not to make it public. Complainants should always remain anonymous to avoid reprisals.
- Citizen visitor groups should be allowed access to immigration detention facilities in their entirety, insofar as this does not interfere with the privacy of the detained.

# VI. Conclusion

Embedded in ICoCA's "Making the Case for Responsible Security" strategy and against the backdrop of the increasing involvement of PSCs in migration management, this report has studied the state of affairs concerning PSCs' activities in this field, looked at factors increasing or reducing of human rights violations at the intersection of migration management and private security, and identified best practices for migration management by private security. In doing so, it has sought to contribute answers to the question of how to foster responsible security in migration management provided by private security actors. The Geneva Graduate Institute applied research project which produced this report has approached this challenge by elaborating a conceptual map of knowledge on the issue before analysing 18 semi-structured interviews that the research team conducted with different populations of experts in the fields of migration and private security between July and November 2022.

The method of interweaving the literature and findings from the interviews has produced an original contribution to the state of research, which has highlighted in particular how migration management puts people in vulnerable contexts *per se*, but also how certain personal characteristics may exacerbate these vulnerabilities. This is particularly the case in combination with deficits in the management of PSC employees, notably as regards inappropriate recruitment and training procedures, and poor working conditions. At the same time, all of the interviews analysed evidenced that situations of migration management are highly idiosyncratic, wherefore context-specific solutions are required to address existing issues. The findings of this report should thus be treated with caution as far as their generalizability is concerned. This is underlined by the difficulties the research team encountered in trying to gain profound insights into migration management in the 'Global South'. This socio-geographic context as well as the rationales prevalent there clearly require further research. In general, this report is an attempt to bridge the gap between academic literature and practice by developing best practices thoroughly founded in academic research. Due to the breadth of the topic, this is necessarily a cross-sectional exercise – many of the topics touched upon would undoubtedly have deserved a report of their own. Among other things, an even better understanding of group-related vulnerabilities is needed in order to be able to advance the development of adequate protective measures.

Thus, while some – if not many – of the issues addressed in this report require further research, the authors still hope to have made a contribution to the goal of making tangible progress toward better respect for international norms by private security actors.



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# Annex: Interview Questionnaire

## Introduction

1. What is your occupation and what country or region is your primary focus?
2. What is your relationship with migration and border management? Are you familiar with PSCs working in this field?

## Mapping the Industry

3. How do you see the current role of PSCs in migration management in your country/region (including border management and migration detention)?
  - What services do PSCs provide in migration management?
  - Do you see any differences between countries/regions?
4. If you look back, do you feel this role has rather changed or remained the same?
  - If changed, how so?
  - Do you see any differences between countries/regions?

## Identifying Problems

5. What are the main problems with migration management today?
6. Do PSCs contribute to or help alleviate these issues?
  - Do you think there are any tensions between profit-driven private companies managing migration?
7. Are you aware of cases of abuse of migrants by PSC personnel in migration management?
  - If yes, which forms of abuse took place?
  - Are there specific factors driving/facilitating abuse of migrants by PSC personnel in such settings?
  - If yes, which ones? (working conditions? negative attitudes? lack of oversight mechanisms and impunity? lack of training? language/cultural barriers?)
8. Are there certain groups of people more likely to experience abuse at the hands of PSCs?
  - If yes, which ones? (the elderly, women, children, LGBTQ+, religion, race?)

## Role-Specific Questions (skip if not applicable)

### ***PSC employees***

9. What issues or particularities do PSC employees face when working with people in vulnerable settings (migrants, migrants in detention)?
  - What are these issues? (training? language?)
  - What are the best practices employed to deal with these?
  - What challenges does the industry face more broadly? (bad press, misguided pressure)

### ***PSC Executives***

10. Do you think there is fair competition in the market for government contracts? Do you feel like government contracts pay adequately? (or is there a race to the bottom)
11. Do you think alternatives to detention or any other new technologies will disrupt the private detention industry? Do you see this as an opportunity or threat?

### ***Both***

12. Does the detention facility that you are associated with have a formal complaint procedure? What is it?

## Identifying Best Practices

13. Are there difficulties to establish oversight mechanisms and accountability or are effective systems in place?
  - If there are difficulties, which ones?
  - If effective systems exist, how do they work? What factors make them successful?
  - Do human rights treaties and special protection treaties like the 1951 Refugee Convention help to hold PSCs accountable and create justice for victims?
  - Have there been court cases in your jurisdiction to hold PSCs accountable for human rights violations in migration management?
14. What are best practices in the industry to respect human rights and remedy human rights violations?
  - Talking points suggestions: best practices on facilities, training, staff recruitment, registration, employee rights, complaints mechanisms)

#### Optional Question (If time permits)

15. What is the role of (private investors/NGOs/IOs) in exercising pressure for human rights compliance on PSCs working in migration management?
16. Does technology provide new avenues for preventing violations and are they likely to become facilitators?

#### Conclusion

17. Is there anything you would like to add, anything we haven't covered?
18. If we have any further questions, would it be okay if we get in touch with you again?
19. Is there anyone else you recommend we speak to?