



The
Responsible
Security
Association



SECURING DIGNITY

The imperatives of responsible security in
migration surveillance and detention

Policy Brief

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CONTENTS

EXECUTIVE SUMMARY	6
KEY FINDINGS	7
INTRODUCTION	8
FINDINGS AND RECOMMENDATIONS	10
CONCLUSION	24
ACKNOWLEDGEMENTS	25

ICoCA

The International Code of Conduct for Private Security Service Providers' Association (ICoCA) is a multi-stakeholder initiative comprised of states, civil society organisations and private security companies, formed in 2013 to ensure that providers of private security services respect human rights and international humanitarian law. It serves as the governance and oversight mechanism of the International Code of Conduct for Private Security Service Providers ('the Code').

EXECUTIVE SUMMARY

This policy brief identifies key aspects and risks which characterise migration management by private security providers with a view to strengthening respect for human rights.

Not all states contract private security companies (PSCs) to support them in managing migration. When states do contract PSCs to that end, this can give rise to human rights risks. This is particularly so because private security currently takes a predominantly risk-based approach (*“what are the perceived dangers posed by migrants to states and others in the country in which they are present?”*) instead of a need-based approach (*“what do migrants in their specific situation need?”*) to managing migration.

This attitude is rooted in the fact that the professional backgrounds and skillsets of PSC employees often do not adequately match the diversity of needs of migrants. Nor are they sufficient for the variety of tasks PSC employees must perform in migration management. These problems are compounded by the position of power in which migration management places PSC employees. It increases the risk of abuse, rendering complaints, oversight and sanctions mechanisms particularly relevant. When contracting private security, states also need to take active steps to ensure that their own human rights obligations towards people under their jurisdiction are respected and to ensure that contractors acting on their behalf act in conformity with human rights.

An important trend is the growing use of digital technologies in migration management, which could be harnessed by states and PSCs to strengthen respect for human rights. At the same time, the use of digital technologies also bears important human rights risks. Finally, respect for human rights requires investment. Low costs are frequently the main driver in the selection of security providers. Budgets which states allocate to security companies to implement migration management are often too low to ensure the recruitment of competent staff and ultimately the compliance with human rights standards. When costs need to be cut, migrants are the ones who pay the price. The findings are illustrated by examples of recent incidents involving private security. For each of these findings the policy brief makes suggestions to relevant stakeholders (states, PSCs and civil society organisations) with a view to fostering responsible migration management by private security providers.

KEY FINDINGS

- 1 Only some states contract PSCs to support in managing migration, but when they do, this policy choice can give rise to human rights risks.
- 2 Migration management by private security currently takes a predominantly risk-based (*“what are the perceived dangers posed by migrants to states and others in the country in which they are present?”*) instead of a need-based approach (*“what do migrants in their specific situation need?”*).
- 3 The professional backgrounds and skillsets of PSC employees often do not adequately reflect the variety of tasks and the diversity of needs of migrants.
- 4 Migration management can place PSC employees in a position of power, which increases the risk for abuse and renders complaints, oversight and sanctions mechanisms particularly relevant.
- 5 The use of digital technologies for migration management holds opportunities for PSCs, but does not come without human rights risks.
- 6 Low costs are frequently the main driver in the selection of security providers. Budgets states allocate to security companies to implement migration management are often too low to ensure compliance with human rights standards.

INTRODUCTION

What is at stake?

The private security landscape has dramatically changed over the last decade. This evolution has been marked not only by a significant growth in the size of the private security industry but also by an expanding range of services being provided by PSCs. Recent rises in migratory flows and increasingly securitised immigration policies have led states to contract PSCs to help them manage movements of populations. Because of their flexibility and the wide range of services they offer, these providers are an important asset to states. Yet, due to the nature of the tasks, private security engagement in migration management comes with substantial human rights risks, as a number of publicly documented incidents show. A number of emblematic cases¹ are presented in this policy brief to illustrate these risks. The issues raised in these cases could reoccur in other situations and give rise to obvious concerns. With this policy brief, ICoCA wishes to ensure that wherever private security companies are used for the management of migration, international standards are being met and any human rights risk fully mitigated - ICoCA does not take a position on whether governments should outsource the management of migration to private security or

not. Such outsourcing may be seen as incompatible with a rights-based approach to managing migration, as it would be reflecting a purely security-focused view on migratory flows. However, abuses may also occur when state entities manage migration themselves. Furthermore, abiding to the International Code of Conduct - as demonstrated by ICoCA membership - ensures that PSCs comply with human rights standards.

Addressing the human rights risks associated with private security engagement in migration management requires a multi-faceted approach. States should establish clear frameworks and mechanisms to govern the conduct of PSCs. PSCs should ensure that their employees benefit from trainings that emphasise human rights, cultural sensitivity and appropriate use of force. By actively engaging with stakeholders, civil society organisations can provide valuable insights, advocate for policy reform and contribute to the development of ethical guidelines. Thus, collaboration among states, PSCs and civil society organisations is essential to collectively address the challenges and build a responsible and rights-based approach to migration management.

Migration Management

For the purposes of this policy brief, we define migration management as the various activities performed by states, or on behalf of states, relating to people who cross international borders. This policy brief focuses on the areas of activity *where states engage private security companies to act* on their behalf. It includes but is not limited to migration detention, the management of migrants' and refugees' reception or accommodation facilities (such as camps or reception centres for asylum-seekers), border management and control as well as surveillance of migration routes.

It does not include internal migration, issuance of visas and residence permits, examination of asylum claims, provision of social services for foreign nationals (including medical care, guardianship, education for children, administration of migrant work permits, taxation, etc.).

1. The case studies presented in this report are extracted from the ICoCA online Case Map (<https://icoca.ch/case-studies/>) and are based on public source materials.



2. FINDINGS AND RECOMMENDATIONS

Finding 1:

Not all states contract PSCs to support in managing migration, but when they do, this policy choice can give rise to human rights risks.

This policy brief focuses on a number of countries where the management of migration by PSCs is accepted. It should be noted that the outsourcing of the management of migration to private security providers is not a universally accepted practice. Interviewees explained that this is primarily due to varying regulatory approaches in different parts of the world. For example, PSC involvement in migration management in South America is rare because the governmental response to migration is one of regularisation (a state policy that enable non-nationals in an irregular situation to remain lawfully in the country), not of securitisation. Interviewees from places like Nigeria, Bangladesh, Argentina and Mexico cited concerns over a possible loss of sovereignty as reasons for why these states do not contract PSCs to carry out migration management. According to this view, the administration of a country's borders and the people crossing them is crucial for a state's sovereignty, which could be threatened if a state were to not administer its borders through its own agents. However, given the growing importance of private security in many other fields, there is potential that more

countries as well as international organisations may use private security for migration management in the future.

States or organisations may contract out migration management in order to save costs, because of lack of capacities or staff or to avoid deploying their own security agents abroad. Outsourcing can also allow states to have more flexibility to respond to the ever-changing numbers of arrivals, as PSCs can hire and deploy staff more rapidly. States may also do it to avoid transparency and accountability and to outsource their responsibility.

While there is generally no indication that state agents are better at respecting human rights in migration management than private security providers, several interviewees argued that PSC involvement in migration management becomes problematic when states or supranational organisations do not exert human rights due diligence on their private security contractors. This poses risks to PSCs because such contexts often are marred by breaches of applicable law. These breaches may range from violations of the prohibition of non-refoulement, to physical and sexual violence and discrimination on undue grounds, e.g. in the context of food distribution. When active in migration management, PSCs risk becoming implicated and even responsible for these breaches.

Violent repression at Manus Island Immigration Detention Centre

The Australian immigration detention centre on Manus Island in Papua New Guinea faced a series of riots which were violently repressed by private security guards in February 2014 and in January 2015. During these riots, several injuries and deaths occurred, with private security personnel allegedly both participating in the violence against asylum seekers and others sustaining long-term emotional trauma from the riots.

Manus Island in Papua New Guinea was one of three offshore immigration detention centres used by Australia. Since the opening of Manus Island, the centre has been criticised for high rates of depression and anxiety among detainees, under-sourced facilities, poor living conditions and a lack of access for human rights organisations.

In February 2014, unrest at Manus Island resulted in 77 injuries, one by a gunshot and one death from a head injury. In January 2015, over 100 asylum seekers went on a hunger strike, protesting their treatment at the detention centre. A few days later, more asylum seekers joined the protest, while running water allegedly became unavailable at Manus Island. Local security guards went on strike after going unpaid.

After the riots, former guards filed a lawsuit against the private security company and the government, alleging that the two parties were responsible for the failures related to the riots. Specifically, the former guards claimed that their company and the government inadequately trained staff and did not make personal protective equipment available to them. This, the guards alleged, resulted in their physical and mental harm.

In the Australian Parliament, a senate committee recognised several factors that gave rise to the February 2014 riots, including the size and composition of the Manus Island centre; tension between asylum seekers and locals; the condition of the facilities at the centre; inadequate security infrastructure at the centre; and uncertainty about refugee status and resettlement arrangements. Prior to the 2015 riots, it was reported that refugees believed their lives were endangered due to the Australian government's plans to move detainees to Lorengau, the capital of Manus province. Refugees allegedly believed they would be attacked by local people if they moved to the capital; some refugees were so frightened that they refused to leave the centre.

In October 2021, Australia ended offshore immigration processing on Papua New Guinea. The Manus Island centre was found to be illegal and ordered shut by the Papua New Guinea Supreme Court in 2016. Australia was forced to pay \$70m in compensation to those unlawfully detained. The Australian government also had to settle with the former security guards. Finally, two guards that were allegedly implicated in the death of an asylum seeker were convicted and sentenced to 10 years in jail by Papua New Guinea's national court.

Recommendations

States should

- 1. establish a clear regulatory framework** which sets out what kinds of migration management services may be contracted out to PSCs;
- 2. require PSCs to conduct a human rights impact assessment** as part of the tender process;
- 3. make respect for human rights and other applicable international law a contractual obligation** when concluding contracts with PSCs. The contract should specify that PSCs must compensate affected individuals to remedy the damage resulting from the violation of said obligation;
- 4. establish clear and transparent oversight structures** for PSCs so they cannot be used to diffuse accountability;
- 5. regulate who bears criminal responsibility** and legal liability for any potential incidents;
- 6. conduct an initial human rights impact assessment** before contracting out security services. If, as a result of the assessment, the service in question is deemed to come with a particularly high risk of human rights violations, it should not be contracted out;
- 7. conduct human rights impact assessments throughout the contract cycle** in order to ensure that PSCs comply with their human rights obligations. If as a result of the assessment, compliance deficits are found, they should be remedied immediately, which may require termination of the contract with the PSC;
- 8. follow the ICoCA Procurement Guide² and give preference to ICoCA Members** when contracting PSCs for migration management which will reduce the risk of rights violations, as ICoCA Members commit to respect human rights standards as articulated in the Code.

PSCs should

- 1. be cognisant of the reputational and financial risks** of human rights abuses in the context of providing migration management and factor that into their decision on whether to bid for/enter a contract;
- 2. conduct a human rights impact assessment as early as possible**, ideally at the very start of the commercial process, when deciding to bid for a contract. In doing so, PSCs may rely on the [ICoCA Guidance on Human Rights Impact Assessment for Private Security Providers](#),³ which is freely available on the ICoCA website. If as a result of the assessment, fulfilling the contract is deemed impossible or highly improbable without committing human rights violations, it should not be entered;
- 3. conduct human rights impact assessments throughout the contract cycle.** Human rights impact assessments need to be reviewed on a continuous basis to make sure that any new potential or actual human rights impacts are addressed without delay. It is particularly important to review these assessments at critical points of project implementation and when an operation's design or operating context changes significantly. PSCs may rely on the [ICoCA Guidance on Human Rights Impact Assessment for Private Security Providers](#), which is available online. If as a result of the assessment, compliance deficits are found, they should be remedied immediately. If human rights violations are deemed impossible to end without terminating the contract with the state, it should be terminated.

2. <https://icoca.ch/procurement-guide/>

3. https://icoca.ch/wp-content/uploads/2021/07/ICoCA_HRIA_Guidance_A4_EN_WEB.pdf

Sexual abuses at Yarl's Wood Immigration Removal Centre

The Yarl's Wood immigration removal centre has been the UK's main immigration removal centre (IRC) for women for many years. Repeated claims of sexual abuse of inmates by private security staff over several years led to a number of investigations.

In 2011 a Pakistani inmate accused healthcare staff at the centre of sexual misbehaviour. The following police investigation was deemed as not satisfactory, with the interrogation of the alleged victim lasting only for 30 minutes and an ordinary constable being sent instead of a specialist sex abuse officer. Shortly after, she was sent back to Pakistan. Her case was settled by the PSC with a modest amount of damages.

In 2014, a 23-year-old inmate claimed unwanted sexual contact with two guards at the centre. The private security company conducted its own internal inquiry report. Following a four-month legal battle between the PSC and The Guardian, the company was forced to publish this internal report into the claims of repeated sexual assaults. The PSC handling of this case was accused of being inadequate and an external review was demanded. More women then came forward after this, with claims of abuse dating as far back as 2007.

One inmate who was detained from 2008-2009 stated that some of the guards would give the impression that if the inmates slept with them, they would put in a good word for them. Another inmate claimed that some of the inmates would have sex with the guards in exchange for favours. Inmates who witnessed sexual contact were threatened with deportation. It is suspected that many victims were deported before being able to testify, thereby ensuring their silence. The guards have been accused of breaking company policy and entering the inmates' rooms at night. Some of the inmates reported that fights would break out occasionally between the inmates if they suspected each other of having sex with the same guard. Some also claimed to witness guards dancing provocatively with the detainees.

According to data that the PSC submitted to the Home Office, over 8 staff were sacked or resigned over inappropriate behaviour. A report by the National Audit Office (NAO) in 2016 found that "staff at the centre were not adequately trained to deal with the particular concerns, issues and vulnerabilities of those in immigration detention". In 2016 the PSC agreed to the recommendations made by an independent investigation report. They announced that they implemented changes like the introduction of body cameras for all front-line staff, hiring more female staff, reviewing recruitment to ensure suitable candidates are selected and more.



Finding 2

Migration management by private security currently takes a predominantly risk-based (“*what are the perceived dangers posed by migrants to the states and others?*”) instead of a need-based approach (“*what do migrants in their specific situation need?*”).

The emphasis of PSC activity in migration management is on security aspects such as identifying potential risks that migrants may pose to themselves or others. As one interviewee explained, this constructs the idea that migrants are dangerous, threatening, or criminal. Such a risk-based approach disguises the fact that migration fundamentally is a social and humanitarian issue and significantly reduces the likelihood that migrants receive human treatment. For example, several interviewees described the overwhelming and excessively violent response of PSC employees to migrants who became aggressive due to mental health problems or who suffered from panic attacks.

Because of the often traumatic events precipitating flight and migration, migrants may experience mental health issues such as trauma, depression, anxiety and aggression as well as other psychological, emotional and physical consequences. Victims of torture and other serious physical, psychological or sexual violence also need special attention. Insensitive treatment, and in particular detention, can and has been shown to aggravate and even cause the aforementioned health conditions and symptoms.

As regards children in migration management contexts, they must not simply be treated like adults. The Joint

general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on state obligations regarding the human rights of children in the context of international migration makes clear that children must not be subjected to immigration detention. It should be ensured that they can benefit from recreation and play, including with other children, which is essential to a children’s physical and mental development and will alleviate stress and trauma.

A purely risk-based approach to migrants impedes due consideration of the individual characteristics, circumstances and needs of the persons at the receiving end of migration management. For example, a vulnerable group that is often being overlooked are young single men. Interviewees mentioned that young men without dependants are perceived as responsible of a higher number of security incidents compared to the total number of migrants affected by migration management. As a result, they are perceived by security guards as a threat or used as scapegoats in case of incidents and are subjected to excessive use of force as a result.

The Code, the UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, the IOM Guidelines for Border Management and Detention Procedures Involving Migrants, and the IOM Information Note on International Standards on Immigration Detention and Non-Custodial Measures set out standards for treating migrants with due regard for their individual characteristics, circumstances and needs which may prove helpful for states and PSCs alike.

Recommendations

States should

1. recognise that in order to fulfil their obligations under international law, **migration management contracted out to private security must extend beyond a risk-based approach.** This entails implementing the standards reflected in human rights treaty law and the interpretations thereof by the respective treaty bodies, the Code, the UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, the IOM Guidelines for Border Management and Detention Procedures Involving Migrants, and the IOM Information Note on International Standards on Immigration Detention and Non-Custodial Measures.

PSCs should

1. recognise that migration management requires a broader range of services than merely security and, if they engage in the delivery of these services, ensure that they are delivered in accordance to relevant international norms and standards;

2. analyse what services a contract requires of them and whether they or potential subcontractors have the necessary skills before bidding for or accepting a contract. If, as a result of the assessment, it is deemed impossible to provide the necessary skills, the contract should not be entered;

3. duly consider and address individual needs, characteristics and circumstances, including but not limited to age, gender, health condition, religion, cultural background, language skills, sexual orientation and vulnerability situation, when engaging with individuals subject to migration management.

Inhumane transportation of migrants in the USA

The United States Immigration and Customs Enforcement contracted to private security the management of migrant transportation throughout the country. There have been several incidents involving injury or death during transportation. In July 2017, nine immigrant women were transported from the West County Detention Facility in Richmond, California to Mesa Verde Detention Facility in Bakersfield, California by private security guards. Allegedly, the women were shackled by their hands in feet in a suffocating heat, causing the women to struggle for breath. The journey between the two facilities took over 24 hours, despite the cities being typically around a five hours' drive away from each other. It was also alleged that the women were denied access to food, water, medication and restroom facilities for periods of time, while security personnel ignored their cries for help.

On May 21, 2019, the American Civil Liberties Union Foundation (ACLU) filed a lawsuit on behalf of four of the women who were detained and transported. The suit sought damages for suffering and injuries the women sustained during the journey. In February 2022, the parties reached a confidential settlement and dismissed the lawsuit.

Finding 3

The professional backgrounds and skillsets of PSC employees often do not adequately reflect the variety of tasks and the diversity of needs of migrants.

Adequate training can go a long way in contributing to a more understanding and cooperative mindset of PSC employees towards migrants. This is particularly the case for trainings on subjects such as deescalation,

self-control, subconscious biases, diversity, situational awareness, intercultural awareness and communication, among others. In migration management, according to interviewees, PSCs seemingly often are in a 'antagonistic mindset' in which migrants are seen as "adversaries", not as stakeholders with legitimate interests. Interviewees explained that in a number of situations this can be due to the fact that many PSC employees are former military or other state security personnel. They may not have the necessary skills to deal with vulnerable people and their diverse realities and needs.

Excessive use of force and abuse in Swiss asylum centres

In May 2021, Amnesty International published a report accusing asylum centres in Switzerland of human rights violations. It focused on incidents of abuse in asylum centres in Altstätten, Basel, Boudry, Giffers and Vallorbe from January 2020 to April 2021. The State Secretariat for Migration (SEM) had commissioned private security companies for providing security services in these centres. The report was based on interviews with abuse victims, former security employees, legal representatives, medical reports, criminal complaints, other witnesses to the abuse and other relevant documents. Prior to this report, several other NGOs and media outlets had raised the issue of abuses in Swiss asylum centres.

Allegedly, security personnel abused and used excessive force against the asylum seekers, including children. Incidents of abuse include beatings, sustained violence that led to epileptic seizure and restriction of breathing, confinement and resulting hypothermia and more. At times, medical care was refused for those who sustained injuries. Increased hostility, racism and prejudice by the security guards was also reported.

Interviews with former security employees revealed increasing dissatisfaction with the training provided and with instructions from superiors often encouraging them to resort to violent and coercive measures against the asylum seekers. There were also allegations of falsification of incident reports by some of the security employees.

Following several media reports on the issue, the SEM stated that an independent investigation has been launched into the suspected violence. Fourteen security employees were suspended following the criminal complaints filed. In 2023, a Swiss court convicted four security employees for assault and endangering the life of an asylum seeker. SEM spokesperson stated that SEM is now in the process of hiring its own employees as security managers.

Recommendations

States should

- 1. analyse what kinds of services are required** in order to comply with their human rights and other obligations (e.g. security, healthcare, psychosocial support, translation, catering, legal services) and, in designing tenders or requests for proposals for contracting out migration management, detail these requirements;
- 2. require PSCs to have a rigorous quality assurance system** in place that ensures staff are adequately and continuously trained on all fields relevant to the services they provide;
- 3. exert due diligence** throughout the duration of the contract on whether the required services are being delivered to a sufficient quality.



PSCs should

- 1. not hire employees who have been convicted** of any crime that would indicate that the individual lacks the character and fitness to perform responsible security services (see paragraph 48 of the Code);
- 2. identify hard and soft skills**, including through psychometric tests, when recruiting employees and place employees in positions reflecting those skills;
- 3. place particular emphasis on soft skills** of those being recruited to deal with migrants in vulnerable situations, families and children;
- 4. recruit a diverse workforce**, including women and other underrepresented groups, so the characteristics of their personnel reflect those of the migrants they are dealing with;
- 5. develop an understanding of the (soft) skills of their employees** and seek to expand them by continually offering training on pertinent subjects such as de-escalation, self-control, subconscious biases, diversity, situational awareness, intercultural awareness and communication, as well as knowledge of the pertinent legal provisions and identifying and addressing situations of human trafficking;
- 6. ensure that the training employees receive is based on the skill gaps** identified in the needs assessment (see finding 2);
- 7. ensure that knowledge is not only learnt by heart but acquired in practically oriented trainings;**
- 8. require training** on the prevention of sexual exploitation and abuse, the use of force, harassment, discrimination. Alternatively, PSCs can join ICoCA and require the use of ICoCA training **on prevention of sexual exploitation and abuse and on the Code;**
- 9. condition employment** on successful completion of relevant trainings;
- 10. use training results** to identify the most suitable distribution of staff over different tasks.



Finding 4

Migration management places PSC employees in a position of power, which increases the risk for abuse and renders complaints, oversight and sanctions mechanisms particularly relevant.

The powers given to PSC employees in migration management contexts (e.g. to physically restrain individuals) places them in a position of power vis-à-vis the migrants they engage with. Abuse of this position of power can quickly lead to a violation of migrants' rights. This risk can be mitigated by having functioning complaints, oversight and sanctions mechanisms in place. However, interviewees observed the formation of a strong team spirit among PSC personnel which can lead to them protecting each other from accountability for potential misbehaviour. Overall, a majority of interviewees noted a lack of accountability in migration management contexts. Where complaints mechanisms are in place, they often are not very functional because they are not sufficiently endowed with personnel and financial resources, because they are not sufficiently communicated, or because they set up hurdles that are difficult to overcome for migrants. Interviewees pointed out that in some places, complaints can only be filed in written form, which places people who do not speak the language or are illiterate at a disadvantage. Often, civil society organisations only have limited access to immigration detention sites and must rely on the National Preventive Mechanisms established under the Optional Protocol to the Convention against Torture, many of whom are weak and not always fully politically independent.

Recommendations

States should

- 1. respect, protect and fulfil human rights** in the governance of their borders. The privatisation of border governance functions does not defer, avoid or diminish the human rights obligations of the state (see the OHCHR Recommended Principles and Guidelines on Human Rights at International Borders);
- 2. ensure that an efficient system for submitting anonymous complaints to an independent review body is in place** and functional in all settings of migration management by private security. In particular, this body should have the necessary powers and resources to work efficiently and expediently;
- 3. ensure that complaints mechanisms are accessible to all.** This should include migrants who are illiterate, for example by including pictograms on complaint forms and access to a hotline or advice service, with interpretation through which complaints can be filed verbally;
- 4. ensure migrants access to lawyers and legal advice and aid;**
- 5. allow citizen/NGO visitor groups access to immigration detention facilities** in their entirety, insofar as this does not interfere with the privacy of the persons detained;
- 6. ensure that complaints are adequately addressed** and that complainants remain free from retribution.



PSCs should

- 1. contribute to ensuring that an efficient system of submitting anonymous complaints to an independent review body is in place** and functional in line with paragraph 67 of the Code in all settings of migration management in which the PSC is active;
- 2. contribute to ensuring that complaints mechanisms are accessible to all.** This should include migrants who are illiterate, for example by including pictograms on complaint forms and access to a hotline or advice service, with interpretation through which complaints can be filed verbally;
- 3. publish statistics** on complaints and responses within the affected institution;
- 4. share statistical data** with suitable third parties such as visitor groups in accordance with the applicable data protection standards;
- 5. allow migrants access to lawyers and legal advice and aid;**
- 6. allow citizen/NGO visitor groups access** to immigration detention facilities in their entirety, insofar as this does not interfere with the privacy of the persons detained;
- 7. communicate the existence and functioning of complaints mechanisms** within immigration facilities.

Civil society organisations should

- 1. scrutinise regularly whether existing complaints mechanisms are efficient** and functional, and whether their existence and functioning is communicated to its potential users;
- 2. verify whether complaints are adequately addressed** and if complainants remain free from retribution;
- 3. cooperate with lawyers and other legal professionals** in order to ensure that migrants receive quality legal advice and aid;
- 4. help in communicating the existence of complaints mechanisms** to their potential users.

Brook House Immigration Centre

The Brook House Immigration Centre in the UK came under the spotlight in 2017 after a TV documentary revealed the shocking conditions within the detention Centre. The documentary included footage filmed by a former security officer at the Centre and revealed how inmates were bullied, humiliated and addressed in degrading language by the staff. In one instance, private security staff mocked a detainee who was naked, while in another, they tried to harass a detainee who was on suicide watch. Violence was rampant at the Centre, be it with inmates attacking each other or the staff. Drug abuse and self-harm was also quite common.

This was not the first time the Centre came under the limelight. In 2010, a report published by the Chief Inspector of Prisons stated how the detention Centre was one of the least safe immigration detention centres that had been inspected. This report revealed how staff were ill equipped to deal with the violence caused by some of the detainees and how they felt unsupported by their managers. Consequently, the staff started resorting to increased use of force and other harsh methods like separation while dealing with the detainees.

Allegedly, though only a minority of the staff were involved in these patterns of abuse from 2015-2017, the rest of the staff turned a blind eye. There was a culture of silence. Any staff member who showed empathy for the detainees were mocked for it. There was also rising concerns of widespread drug use, bullying and mental health. Incidents of self-harm or threat of self-harm were reportedly very high.

Reportedly, there was a persistent staff shortage problem at the Centre which resulted in heavy workloads for the staff. This meant officers were often overworked, irritable, tired, desensitised and prone to taking out their frustrations on detainees. A former staff mentioned how it was often just two officers responsible for a single wing, which housed more than 100 detainees. In some cases, officers were injured after being attacked by detainees and had to be taken to the hospital. These factors played a significant role in the culture of abuse and silence at the Centre.

Though no prosecutions were brought about after the police investigation, two former detainees were successful in their attempt to have a full independent investigation. Ten staff members were dismissed or had to resign due to this controversy. On September 2023 The Brook House Inquiry Report was published with 33 recommendations. The Inquiry Chair has urged the Home Office to respond to the report within six months. The report found at least 19 instances of mistreatment at the Centre, contrary to Article 3 of the European Convention on Human Rights, which prohibits inhuman or degrading treatment or punishment.

Finding 5

The use of digital technologies for migration management holds opportunities for PSCs, but does not come without human rights risks.

Interviewees agreed that the importance of digital technologies for migration management by PSCs will increase in the future. Interviewees identified a number of opportunities and risks connected to that.

On the opportunity side, most interviewees saw digital technologies in migration management as a business opportunity for PSCs. Moreover, an interviewee explained that their company's experience showed that technical monitoring stations allowed a reduction in the number of PSC employees necessary to guard a facility, which lowered costs. Interviewees also mentioned that technology could improve the human rights situation in migration management by enabling better monitoring of living conditions in immigration facilities and by allowing for prevention of abuses. Health risks such as tuberculosis could be identified early on through advanced sensor technology. Moreover, smart case management, including thorough screening at the border coupled with functioning referral and reporting mechanisms, could lead to migrants enjoying a higher degree of freedom while going through their immigration procedures. This is because it could allow for the same level of state control but with less intrusive means, letting migrants live in the community instead of in immigration facilities.

On the risks side, interviewees noted with concern the human rights impact of 'smart prisons', the increased use of alternative forms of detention, such as 24/7 electronic tagging, the tracking of migrants along migration routes using aerial surveillance or open data from smartphones for identification and geo-localisation and facial recognition as well as iris recognition systems, which may expose migrants to breaches of their privacy and abuse of their personal data or lead them to take additional risks along unsafe migration routes. According to the interviewees, these developments are particularly worrisome because they are taking place in a regulatory vacuum in many contexts. Interviewees also considered it ethically questionable to test new technologies on vulnerable populations such as migrants. Some viewed with scepticism the overall trend of increased use of technology because they felt it focused on improved control, not protection, therefore it carried the potential to exacerbate human rights violations.

Recommendations

States should

- 1. leverage the potential of technology and digitalisation** by implementing less intrusive and restrictive forms of migration management, such as digital reporting mechanisms;
- 2. adopt necessary regulation** of digital technologies with a view to safeguarding and improving migrants' enjoyment of human rights.

PSCs should

- 1. make use of technological means** such as platforms and applications tracking living conditions in immigration facilities in order to identify and remedy shortcomings;
- 2. analyse the risk of negative externalities** caused by well-meaning technology applications by conducting periodic reviews and surveys on the impacts of such systems and act accordingly;
- 3. Follow the good practices** for companies providing security services utilising ICTs: as recommended by ICT4Peace Mapping Study on the use of ICTs in Security Services by Commercial Actors⁴ and, in particular:
 - a. collect less rather than more:** in providing security services, companies should endeavour to collect the least amount of data possible to carry out their business practices in a responsible manner;
 - b. time limits on storing information:** information that is collected should be stored on company systems for limited times and then discarded responsibly;
 - c. transparency:** companies should inform their clients in an easy-to-understand manner of the types and kinds of information they collect, as well as how long they have such information saved on their systems.

4. ICT4Peace, "From Boots on the Ground to Bytes in Cyberspace", 2022 (https://ict4peace.org/wp-content/uploads/2022/09/ICT4Peace_Mapping_Study ICTs_PSCs.pdf)

Importantly, they should also provide users and those subject to having their personal information collected with possibilities to opt-out of this data collection;

d. adopt robust information security

practices: companies should implement robust information security practices and procedures that are in line with the highest industry standards, as well as develop human-rights compliant responses in the eventuality that their systems are breached and sensitive information is accessed by malicious actors. For example, end-to-end security means that all information is encrypted on the companies' systems, so that even if it is breached, it cannot be read by the attackers;

e. capacity building: companies need to train their personnel on human-rights compliant practices and procedures for capturing, storing, accessing, managing and deleting information they obtain within the provision of their services, both information obtained from clients, as well as information about third persons, places, communications and any other data exchanges and transactions.

Civil society organisations should

1. critically accompany attempts to regulate digital technologies in migration management and work towards ensuring that regulation benefits migrants' rights;

2. keep track of the digitalisation of migration management and alert the public to developments which might have a negative impact on migrants' rights.

Contracting Aerial Surveillance in the Mediterranean

Private security services may include the provision of intelligence through various means of surveillance such as CCTV, drones or internet protocol surveillance systems. Surveillance may lead to infringe on various human rights including the right for victims of persecutions to seek asylum in another country. In 2020 Frontex, the body mandated by the European Union (EU) to guard its external borders and coasts awarded a contract to companies in the aerospace and defence industries to provide "medium altitude long endurance maritime surveillance services through Remotely Piloted Aircraft Systems (RPAS)". Frontex was accused by Human Rights Watch of being complicit in the interception of migrant boats by the Libyan Coast Guard and their return in Libya where they could be exposed to detention and abuses. In one particular incident the Libyan forces allegedly intercepted a boat almost two hours after a drone detected it when, ideally, Frontex should have sent a distress signal to one of the nearby rescue ships. A Human Rights Watch article stated that this approach is designed "not to rescue people in distress but to prevent them from reaching EU territory".

Finding 6

Low costs are frequently the main driver in the selection of security providers. Budgets states allocate to security companies to implement migration management are often too low to ensure compliance with human rights standards.

Respect for human rights comes at a cost. When providers are selected only based on costs, migrants are the ones who pay the price for it. Sufficient funds are not only needed in order to guarantee fulfilment of material needs of migrants (for example a healthy diet), but also in order to ensure good working conditions for security personnel (for example as regards adequate pay, sick leave and training). However, interviewees mention that governments often are among the lowest-paying clients of the private security industry. Profit margins in the sector are already low and companies which have been awarded government contracts may see themselves forced to cut personnel costs to remain profitable. This comes at the expense of working conditions.

Yet, good working conditions are crucial in ensuring that PSC personnel handle critical situations adequately, in turn reducing human rights violations. Tired, overworked or frustrated employees are more likely to make errors of judgment than those who are well rested and satisfied with their working conditions. In an ICoCA-commissioned survey on working conditions in the private security industry among nearly 3,000 private security guards in three East African countries, between 31 and 64% of guards stated that working conditions affected their performance identifying pay, shelter and sanitary facilities as key factors. Low morale, fatigue, lack of concentration and mental exhaustion were cited as principal effects of poor working conditions. More than a third of the guards admitted that poor working conditions led to unlawful behaviour⁵.

Recommendations

States should

1. make sure that contracts are endowed with sufficient funds to allow PSCs to meet all applicable standards and deliver quality services, including offering decent working conditions and recurring training to PSC staff.

PSCs should

1. analyse if the budget foreseen in a contract is sufficient to ensure quality service delivery before bidding for and accepting it. If, as a result of the assessment, the budget is deemed insufficient to ensure quality service delivery and renegotiations are unsuccessful, the contract should not be entered;

2. respect the labour rights of their employees (including but not limited to working hours, salaries, holidays, sick leave and the right to form and join unions) and offer them meaningful career paths in order to attract and maintain a motivated and talented workforce;

3. offer their employees psychological support to recognise and address mental health issues which may have adverse effects on their performance.

5. ICoCA, "When the abused becomes the abuser, Working conditions and compliance with legal standards in the private security industry", 2023 (<https://icoca.ch/2023/12/14/when-the-abused-becomes-the-abuser-policy-brief-report/>)

CONCLUSION

This policy brief highlights key aspects and risks which characterise migration management by private security providers. It is based on non-exhaustive research and as such, only highlights some of the most emblematic cases and presents some general policy recommendations. More research is needed on the use of private security in migration and border management to develop detailed guidelines for security companies and for the governments and organisations contracting them.

Even though the practice of contracting private security services for the management of migration services is not widespread at present, existing practice and precedents shows that risks for human rights are particularly high. Furthermore, in view of the growing use of private security in all sectors of society, including in roles and functions traditionally ran by states, it is likely that private security will continue to be used within the framework of migration, border management and surveillance. In view of the risks, there is a need to ensure that appropriate due diligence is carried out when contracting private security for such tasks. Governments and companies are encouraged to contact ICoCA and visit [ICoCA.ch](https://www.icoca.ch) for more information on human rights requirements and guidance applying to migration management by private security.

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