ATAMODELUN

LEGAL

STUDY GUIDE

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1. Welcoming Letters

1.1 Letter from Secretariat

Dear Delegates,

It is our distinct honor and privilege to welcome you all to ATAMUN ’2026. On behalf of the Secretariat and the Executive Board, we extend our warmest greetings as we prepare to embark on an exceptional journey defined by constructive debate, diplomatic negotiation, and global problem-solving.

This year marks a monumental step forward for our conference. We are exceptionally proud to announce our affiliations with Yale Model United Nations (YMUN LIII) and Oxford Global. These partnerships underscore our unwavering commitment to maintaining world-class academic standards, fostering international educational exchange, and offering our delegates a diplomatic experience rooted in the highest global benchmark of MUN excellence.

This Study Guide has been meticulously drafted by the Academic Team of LEGAL to provide you with a comprehensive, nuanced foundation for your committee deliberations. It outlines the core historical context, key political dynamics, and central questions facing your respective committees. We strongly encourage you to immerse yourselves in your delegation’s foreign policy, push the boundaries of innovative policymaking, and engage with the debate in a spirit of true diplomatic leadership.

We wish you a fruitful and rewarding preparation process, and we eagerly look forward to seeing the impactful debates you will lead at ATAMUN ’2026.

Warmest regards,

Kerem Veysel Düzgün & Hasan Arif Ege Başkurt
Co-Secretaries-General, ATAMUN ’2026

1.2 Letters from the Co-Under-Secretaries General

Distinguished delegates of the LEGAL committee,

As the Co Under Secretary General of our committee, I would like to start my words by stating that it is an honor for me to welcome you all to the LEGAL committee of the ATAMUN'26 conference.

First of all, I would like to extend my gratitude to everyone who contributed to the realization of this conference, and extend my gratitude to the secretariat— Kerem Veysel DÜZGÜN, Hasan Arif Ege BAŞKURT and Ezel ALEM —for making it possible for us to be here with this committee.

Before concluding, I would like to express my sincere thanks to our Co-Under-Secretary General Esmanur ÇAPRAZ for her huge support both in terms of the committee and in a spiritual sense and for being my sister from another mother. I would also like to express my gratitude to our dear academic assistant, Salih Boybeyi, for his support and efforts regarding the committee's progress.

Herein, in our committee, we have decided an agenda that deals with one of the most challenging topics in international law in today’s times. These include jurisdictional challenges, state responsibility, international humanitarian law compliance, and the ever-growing role of non-state actors in warfare. The study guide provided below is intended to give you a thorough insight into these topics. We recommend that you study it carefully and conduct further research in order to come up with innovative and practical solutions for your committee.

I hope to see you all prepared and excited for the sessions.

If you do have any questions regarding the procedure, agenda or anything about our committee, do not hesitate to contact me through my personal number or email address below:

5427732046
berenbilgin009@gmail.com

Best Regards,

Beren BİLGİN

Distinguished Delegates,

It is my greatest pleasure to welcome you all to this committee. My name is Esmanur Çapraz, and I will have the honor of serving as your Co-Under Secretary General throughout this conference. On behalf of the entire academy of this committee, I would like to express how excited we are to meet each and every one of you and witness the insightful debates that will take place during our sessions.

Before anything else, I would like to extend my sincere gratitude to the Executive Team, the Academic Team, and the Organization Team for their dedication and hard work in making this conference possible. I would also like to thank my dearest Co-Under Secretary General, Beren Bilgin, for all of her greatest support and for giving me the pleasure of preparing this committee together, and also my Academic Assistant Salih Boybeyi. Most importantly, I would like to thank you, our delegates. Your enthusiasm, preparation, and willingness to engage in meaningful discussion are what truly bring this committee to life. Whether this committee was your first choice or not, I sincerely hope that you will find the experience both intellectually stimulating and enjoyable.

This study guide has been prepared to provide you with a strong foundation for your research and preparation. However, it should only serve as a starting point. It is your responsibility as delegates to further investigate your assigned country's policies, previous actions, and perspectives regarding the agenda. Thorough research and a clear understanding of your country's position will be key to your success in committee.

Should you have any questions during your preparation process, please do not hesitate to contact me. I would be more than happy to assist you in any way possible.

I wish all of you the best of luck in your preparations and look forward to an engaging, productive, and memorable conference.

Best regards,

Esmanur Çapraz

Co-Under Secretary General of LEGAL

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1.3 Letter from the Academic Assistant

Distinguished delegates of the LEGAL committee,

I as the Academic Asisstant of the LEGAL committee Welcome you all to the ATAMUN26 it is an honour to be here with this committee

Before starting I would like to express my sincere thanks to out Co-Under Secratary Generals Beren BİLGİN and Esmanur ÇAPRAZ for their big support and efforts also for their invite

In this committee we have decided to choose agenda related to todays world which is a one that is also one of the most challenging topics in todays law, we as the Academic Team of the LEGAL have written this study guide in order to you to have you a clear insight into the topics. We recommend you all to read this guide and do further researches about the topics which is written down below, we expect your futuristic and also realistic solutions fot the committee.

I hope to see you all prepared and ready for the committee

if you do have any questions or problems you my personal contacts are:

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King Regards

Salih Boybeyi

2. Introduction to the Committee

The Sixth Committee (Legal Committee or C6) of the General Assembly of the United Nations was created at the first General Assembly session in London on January 11, 1946 as the principal-making body within the institutional framework of the United Nations for addressing international legal issues and developing the foundations of the international legal order. Established as one of the six main committees in accordance with the recommendations of the United Nations Preparatory Commission, the Sixth Committee inherited the institutional legacy and codification functions of the Committee of Jurists within the League of Nations Council, both historically and functionally. During the drafting of the United Nations Charter at the San Francisco Conference in 1945, a difficult legal debate ensued among the founding states regarding whether to grant supranational legislative authority to the General Assembly or the Sixth Committee. An overwhelming majority of participating governments explicitly rejected the transfer of power to the UN General Assembly to establish directly binding legal rules on member states or to impose international treaties on states by majority vote. As a result of this sovereignty-based legal approach, the mandate of the General Assembly and its Sixth Committee is limited to initiating studies and making recommendations in line with the study, codification, and progressive development of international law, rather than being a supranational body that enacts binding laws.
The Sixth Committee derives its legal existence and competence directly from *Article 13, paragraph 1(a) of the United Nations Charter*. This provision empowers the General Assembly to work towards promoting political cooperation internationally, encouraging the progressive development of public international law, and codifying this law. In doctrine and

committee practice, these two normative concepts are clearly distinguished: Progressive development refers to drafting new treaty texts and legal norms on matters not yet regulated by international law or sufficiently developed in international law; while codification describes the formulation of existing customary law rules, obtained through state practices, precedents, and doctrine, in a more precise, systematic, and written form. Subsequent United Nations practices have interpreted Article 13 broadly, granting the Sixth Committee the authority to draft, adopt, and submit to member states for ratification, signature, or accession the widest range of treaty drafts on a global scale.

The Sixth Committee operates under *Article 98 of the United Nations Rules of Procedure,* based on the principle of universal membership and offers equal representation and voting rights to all 193 member states. Alongside member states, states with observer status, international organizations, and certain intergovernmental structures can participate in the deliberations without voting rights. Meeting annually at UN Headquarters in New York for approximately six weeks, from early October to mid-November, in parallel with the annual session of the General Assembly, the Committee considers legal agenda items referred to it by the Presidency of the General Assembly. While the Committee's work is, as a rule, carried out by expert legal advisors serving in the Permanent Missions of States to the UN, the chief legal advisors of the Foreign Ministries of member states personally travel to New York to participate in the sessions during the traditional International Law Week, which takes place at the end of October each year and during which the reports of the International Law Commission are discussed. The administrative direction and organization of the Committee is undertaken by the Bureau, which consists of a Chairperson, three Vice-Chairpersons, and a Rapporteur, elected at the beginning of each session according to the principle of geographical rotation.

Although decisions in the Sixth Committee are generally based on the principle of majority vote in accordance with the Rules of Procedure of the United Nations General Assembly, a deeply rooted tradition of consensus has been established in the Committee's decision-making culture. The consensus procedure, meaning the adoption of decisions by the consent of all States Parties without a formal vote, maximizes the legitimacy and binding potential of the adopted international legal texts for States. The adoption of texts by consensus without formal voting minimizes bureaucratic and political resistance in the subsequent stages of transposition, ratification, and implementation of the legal regulation by states into domestic law. However, this can make it difficult to achieve international consensus on sensitive international law issues and can cause some draft treaty negotiations to last for decades.

The Sixth Committee's normative production capacity and technical competence are directly based on the expert auxiliary bodies established within its own structure or reporting to it. The General Assembly established the *Committee on the Progressive Development and Codification of International Law,* also known as the Committee of Seventeen, to work upon the methods of implementing Article 13 by its resolution 94 (I) of 11 December 1946. Subsequently, in 1947, the International Law Commission (ILC) was established and its statutes approved by resolution 174 (II) of 21 November 1947.

Composed of 34 independent international law experts, all acting in their personal capacities rather than as government representatives, the ILC constitutes the scientific and technical

foundation of the Sixth Committee. This dialectical relationship between the independent legal analyses and draft articles of the ILC and the political-diplomatic filter of the Sixth Committee is the most concrete institutional bridge between diplomacy and law.
In addition to the International Law Commission, there are several permanent and temporary bodies that report directly to the Sixth Committee and contribute to its normative field. The United Nations Commission on International Trade Law (UNCITRAL), which aims to harmonize and unify international trade law, is the most prominent of these. The UN Committee on Relations with Host States, the Special Committee on the United Nations Charter, the Special Committee on Strengthening the Organization's Role, and the Advisory Committee on the UN Assistance Programme for Teaching, Studying, Disseminating, and Promoting Understanding of International Law are all under the jurisdiction of the Sixth Committee.

In cases of highly complex, technical, or politically stalled issues, the General Assembly can establish special ad hoc committees or working groups within the Sixth Committee to resolve specific legal issues and refine draft agreements.
The Sixth Committee's material competence is so broad that it covers almost every aspect of general public international law. The main topics on the Committee’s annual agenda are: international responsibility for unlawful acts of states, criminal responsibility of UN personnel and officials in the performance of their duties, draft articles on the prevention and punishment of crimes against humanity, the institution of diplomatic protection, the scope and applicability of the principle of universal jurisdiction, legal measures to prevent international terrorism, and negotiations on the draft Comprehensive Convention on International Terrorism. In addition, legal cooperation in combating piracy on the high seas, the law of protection of persons in disaster situations, strengthening the rule of law at national and international levels, strengthening the multilateral treaty regime, and the judicial review of the UN domestic justice system and the decisions of the Administrative Court are directly under the Committee’s responsibility.

3. Introduction to the Agenda Item

3.1. Definition and Evolution of Private Military Companies (PMCs)

Over the last decade and a half, functions traditionally performed by the security or military apparatuses of states have increasingly been contracted out to private military companies (PMCs). Whereas the bulk, in dollar terms at least, of these contracts initially related to logistical or administrative support tasks, the past years have witnessed a significant growth in the involvement of PMCs in security and military functions in situations of armed conflict. This involvement includes the protection of personnel and military assets, the staffing of checkpoints, the training and advising of armed and security forces, the maintenance of weapons systems, the interrogation of suspects or prisoners, the collection of intelligence and even participation in combat operations. States are not the only client of PMCs; these companies also provide a variety of services to other actors including private corporations, international and regional inter-governmental organizations as well as non-governmental organizations, often in situations of armed conflict.

It is the extremely visible presence of PMCs in Iraq since 2003 that has drawn public attention to them. While the circumstances in Iraq have undoubtedly provided a fertile ground for the industry, they definitely did not mark the beginning of the move towards a ‘‘privatization of warfare’’. This shift started in the early 1990s, if not before, and resulted from a variety of factors, including the downsizing of national armed forces in the aftermath of the Cold War and their disengagement from ‘‘proxy commitments’’ overseas, as well as the preponderance of free market models of states that promoted the outsourcing of traditional government functions, including those in the military field.

PMCs raise a multitude of legal, political and practical questions. What are the rights and obligations of PMCs under international law and what are those of the states that hire them or in whose territory they operate? How is the industry to be best regulated, at the international level, the national level or by self-regulation? What are the consequences of this apparent erosion of states’ monopoly of force? What are the effects of what appears to be a further blurring of the distinction between military and civilian actors?

PMCs have featured widely in the media in recent months and it is often asserted, both in popular and in expert publications, that there is a vacuum in the law when it comes to their operations. Such sweeping assertions are inaccurate. In situations of armed conflict there is a body of law that regulates both the activities of PMC staff and the responsibilities of the states that hire them, namely international humanitarian law. Moreover, the states in whose territories such companies operate, as well as their states of nationality, also have a significant role to play in ensuring respect by PMCs for that law.

In the event of serious violations of international humanitarian law, the responsibilities of PMC staff and of the states that hire them are well established as a matter of law. Admittedly, difficulties have arisen in practice in bringing legal proceedings for violations. It is true, however, that there is very limited law relating to national or international control of the services PMCs may provide and the administrative processes, if any, with which they must comply in order to be allowed to operate. At present there is no international regulation of the issue. Only a handful of states have adopted specific legislation laying down procedures with which PMCs based in their territory must comply in order to be allowed to operate abroad – the most well-known example being South Africa’s 1998 Regulation of Foreign Military Assistance Act. Very few states address this provision of services by means of their arms export control legislation, another possible way of exercising some oversight. Equally few states specifically regulate the provision of military/security services by companies operating in their territory.

3.2. The Modern Landscape of Privatized Warfare

The rise and growth of Private Military Companies presuppose a shift in the security domain and the global scene of warfare. The state normally holds a monopoly on military force, guaranteeing the control over armed conflict and national defense. Over the last couple of decades, however, world nations have engaged PMCs increasingly , pointing to extensive changes across the dynamics of international security. This shift is more prominent in state capacities overstretched or too weak to match the increasingly complex security demands in conflict environments. PMCs have made themselves into indispensable actors of modern warfare with a span of specialized services, hence filling critical gaps left by state militaries.

This new situation heralded an era of transformation, characterized by geopolitical adjustments in alignments, budgetary austerity in defense spending, and increasingly asymmetric threats from terrorism, insurgencies, and transnational crime. Gradually, this evolution outpaced conventional state military forces and has caused security deficits in many regions. PMCs have moved into this breach, offering specialized services ranging from combat support and strategic planning to intelligence gathering and logistical support . This gives rise to a number of important questions relating to the role of PMCs in modern warfare and their implications for global security.

The extensive involvement of Blackwater in Iraq and the Wagner Group in Syria. The extensive involvement of Blackwater in Iraq, especially after the 2003 US invasion, exemplifies how PMCs can provide crucial security functions as supplements to state military forces during times of need. The fact that the company was involved in the protection of diplomats, infrastructure guarding, and high-risk operations underlined the demand for private security solutions against the background of an unpredictable environment. Equally important, the involvement of the Wagner Group in the Syrian civil war explains the strategic role of PMCs in supporting state objectives and stabilizing zones of conflict. Wagner's combat operations, support of the Assad regime, and participation in key battles flesh out the depth and complexity of PMC engagement in contemporary conflicts.

3.3. Jurisdictional Gaps Arising from Private Military Companies

Throughout the course of the Global War on Terror (GWOT) and the war in Iraq, the Bush administration rarely chose to employ laws that would allow the United States to prosecute members of private military companies for alleged criminal misconduct. Although private military companies (PMCs) operating in the service of the United States are widely believed to operate outside of any legal framework, such an understanding is based on a perceived, rather than real gap in jurisdiction. In fact, an array of options exists for pursuing legal sanctions against either PMCs or individual contractors accused of misconduct. After changes in 2006 to the United States Code, contractors are now subject to the Uniform Code of Military Justice (UCMJ), which subjects civilians to military jurisdiction in situations short of declared wars. This is a problematic overcorrection, which results in many unintended consequences.

Contractors are subject to an array of American laws. The means of control might not always be clear, though, and it would be more precise to say that private military companies and their personnel serving overseas are not subject to the clearly defined American criminal jurisdiction.

U.S. law provides other mechanisms for gaining criminal jurisdiction over contractors. The Military Extraterritorial Jurisdiction Act (MEJA) gave U.S. federal courts criminal jurisdiction over some acts committed overseas by contractors employed by the Department of Defense. The MEJA has not been employed often during the War on Terror or the Iraq War, though. So, although there is a means to try most contractors working for the Department of Defense, the U. S. government has not chosen to charge many people under the law, something that is perhaps more a matter of policy, rather than of law.

Local laws could be used to charge a contractor accused of a crime. Such an exercise of power would, of course, be subject to any treaties or status of force agreements that a country might have with the United States. If a state is sovereign, then it has the authority to try, or not to try, people for offenses committed within its borders, in the absence of a status of force agreement with the United States. In Iraq, this has been problematic since the promulgation of Coalition Provisional Authority Order 17. Issued on the eve of the transfer of power from the Coalition Provisional Authority to the Iraqi government, CPA Order 17 granted limited immunity from Iraqi legal process to contractors.

This order is often described as allowing contractors to act with impunity in Iraq, and has, so far, worked out that way in fact. A close reading of the order, though, indicates that contractors are only to receive immunity from prosecution for acts done pursuant to the contract; the order also enjoins contractors to obey local laws, which suggests that contractors were intended to receive only a limited immunity and were still expected to obey Iraqi laws.

International humanitarian law may provide the means to pursue contractors for criminal conduct. In the international arena, the late twentieth century saw two major attempts to define and to regulate mercenaries. In 1977, a protocol to the Geneva Convention addressed mercenaries and twelve years later the United Nations approved an anti-mercenary convention.

4. Case Studies upon PMCs

4.1 Blackwater Controversies

North Carolina-based Blackwater USA, founded in the 90s by former naval officer Erik Prince, became one of the world's most prominent PMCs after the company won substantial Defense Department Contracts to provide personal security in Iraq from 2003 to 2011. Blackwater first contract, awarded in 2003 was for providing protection for Ambassador L. Paul Bremer at cost of 21$ million for an eleven month period.From 2004 to 2009,Blackwater earned 320$ million in Defense Department contracts for services in Iraq

The military conflicts won by Blackwater attracted media scrutiny because of the close ties between Blackwater employees and representatives of the Bush administration, Prince was a White House intern under the first Bush administration and his family were longtime and substantial contributors to the Republican Party. In addition, Prince’s sister was a former chair of the Republican Party and members of the Blackwater staff served in high-ranking government positions.Cofer Black, one of Blackwater’s chief officers,was a former CIA head of counterterrorism operations

Between 2004 and 2010, representatives of Blackwater were involved in a number of high -profile controversies,primarily regarding the behavior of Blackwater employees.There were numerous instances of Blackwater employees being accused of assaulting or mistreating civilians and taking an aggressive or active role in minor conflicts.The 2004 death of four Blackwater employees operating as guards for a supply convoy in Fallujah was also controversial; some in the media speculated that the incident was indicative of the problems inherent in allowing civilian security to operate in unstable areas.

4.2 Nisour Square Massacre

On September 16, 2007, private guards hired by the State Department to protect its diplomats in Baghdad opened fire on Iraqi civilians in Nisoor Square, killing at least 14 people and injuring as many as 24, all of them Iraqis. The guards, working as contractors for Blackwater Worldwide, said they had come under fire and were defending themselves while trying to leave the area. Iraqis on the scene and US investigators said the Blackwater guards fired without provocation and were the only ones firing weapons.

The incident sparked outrage from Prime Minister Nuri al-Maliki, who tried to end all Blackwater contracts in Iraq and have the guards put on trial in Baghdad. However, the security contractors had immunity from Iraqi law. Moreover, they could not be tried under military law because they were civilians. In December 2008, using an unusual application of a law that governs contractors working for the US military, the Justice Department filed charges against five Blackwater guards. In addition to the guards' ambiguous legal status, the Nisoor Square incident raised questions about whether the use of private security contractors undermined the military's "hearts and minds" mission in Iraq.

4.3 Wagner Group

By the late 2010s,global conversations about PMCs began to focus on PMC Wagner, often referred to as the Wagner Group, a Russian PMC formally established in 2014 by Russian businessman Yevgeny Prighozin, whose restaurant and catering businesses had helped him establish a close relationship with Russian leader Vladimir Putin. Former Russian army officer Dmitry Utkin was allegedly involved in helping found the group. One of the group's first high-profile actions was helping with the illegal Russian annexation of Crimea, a Ukrainian territory,in February 2014;many observers speculated that using Wagner PMC contractors helped Putin deny direct responsibility for the annexation.

Wagner continued to enjoy a close relationship with the Russian government throughout the 2010s and received extensive fundşng from the Russian government for its involvement in the Russian intervention in the Syrian Civil War and other conflicts. In addition to the funding it received from the Russian government,Wagner also enriched itself through its work in Africa,particularly in Mali and the Central African Republic;in exchange for providing military support to the countries' embattled central governments, Wagner was allowed to take over gold mines and other

The group's profile grew significantly after it assisted the Russian invasion of Ukraine, which began in February 2022 and initially failed to capture the Ukrainian capital of Kyiv and a number of other key objectives. As the Russian war effort stalled throughout 2022 and into 2023 Putin, who at that time still enjoyed a close relationship with Wagner leader Prigozhin, allowed the PMC to recruit directly from Russian prisons. Many of these new Wagner recruits were allegedly sent to the frontlines with little training, a sharp contrast from the seasoned military veterans who made up the majority of Wagner's contractors before the invasion began and who tend to make up the majority of contractors at normal PMCs. By May 2023, the US government estimated that 50,000 Wagner soldiers were fighting in Ukraine, making Wagner one of the largest PMCs in the world at that time. Meanwhile, Prigozhin became a public figure as he openly acknowledged his leadership of Wagner and publicly criticized the leadership of a number of Russian military officials.

Wagner soldiers were accused of a number of war crimes in Ukraine, including the murder and rape of Ukrainian civilians, leading to international sanctions; the group also played a key role in some of the conflict's bloodiest battles, including the battle of Bakhmut, sustaining an estimated 22,000 soldiers killed in action by May 2023, according to the group's own estimates. Putin's increasing reliance on Wagner in Ukraine gave the group a level of power and influence unusual for PMCs and turned Prigozhin into one of the most powerful figures in Russia; his criticism of the Russian military intensified as the Russian war effort struggled throughout 2023, although he initially sought to maintain his close relationship with Putin.

Prigozhin's criticism escalated into open conflict in June 2023 when he led an attempted armed coup against the Russian government, which many observers considered the most serious challenge to Putin's leadership in decades. Wagner's forces ultimately stood down before reaching the Russian capital of Moscow, and Wagner fighters were given permission to relocate to neighboring Belarus, a key Russian ally; Prigozhin was also given amnesty. However, in subsequent weeks, the status of the peace deal and fate of Wagner soldiers appeared uncertain, and Prigozhin continued to appear publicly in Russia. In late August, Prigozhin and ten others, including Utkin, died in a plane crash, which the US and many other countries considered suspicious and possibly carried out on Putin's orders. After the deaths of Prigozhin and Utkin, Putin instituted a new requirement that contractors employed by Wagner and other PMCs swear an oath of allegiance to the Russian government, although the future of the group's relationship with Putin and the rest of the Russian government remained uncertain. By that point a number of foreign governments, including the United Kingdom, had designated the Wagner Group as a terrorist organization.

4.4 Abu Ghraib

The United States Court of Appeals for the District of Columbia Circuit dismissed an appeal filed by Haidar Mushin Saleh and others, Iraqi nationals detained at the Abu Ghraib military prison, against Titan Corporation and CACI International, private military contractors that provided services to the U.S. government at the Abu Ghraib military prison during the war in Iraq. In fact, there are two sets of appeals. The first consists of the Iraqi plaintiffs' appeals from the district court's decision in favor of Titan on both the preemption and ATS issues. The second features CACI's appeals from the district court's denial of its motion for summary judgment on the basis of preemption.

Both defendants assert that they meet the district court's "direct command and exclusive operational control" test for application of the preemption defense and both defendants assert a defense based on sovereign immunity, which the district court has reserved. For the appellant, when a contractor's individual employees under a service contract are integrated into a military operational mission, the contractor should be regarded as an extension of the military for immunity purposes.

The district judge concluded that Titan's employees were "fully integrated into their military units". Although CACI employees were also integrated with military personnel and were within the chain of command, they were nevertheless found to be subject to a "dual chain of command" because the company retained the power to give "advice and feedback" to its employees and because interrogators were instructed to report abuses up both the company and military chains of command. CACI disputes the appropriateness of that test, arguing that it does not adequately protect the federal interest implicated by combatant activities.

The Supreme Court held that the district judge properly focused on the chain of command and the degree of integration that, in fact, existed between the military and both contractors' employees rather than the contract terms–and affirm his findings in that regard. The Supreme Court disagrees, however, somewhat with the district court's legal test: "exclusive" operational control. That CACI's employees were expected to report to their civilian supervisors, as well as the military chain of command, any abuses they observed and that the company retained the power to give advice and feedback to its employees, does not, in our view, detract meaningfully from the military's operational control, nor the degree of integration with which CACI's employees were melded into a military mission. The Supreme Court also agreed with the district court's disposition of the ATS claim against Titan.

Titan can be considered as a state actor and enjoys the sovereign immunity. So, the judgment of the district court as to Titan is affirmed. The judgment as to CACI is reversed in the accompanying order.Thus, plaintiffs' remaining claims are dismissed

5. Current International Legal Framework

5.1 Geneva Conventions and International Humanitarian Law

In recent years, parties to armed conflicts have increasingly recruited private military and security companies (PMSCs) to undertake tasks traditionally carried out by the armed forces. The involvement of these companies in or close to military operations has raised questions about the way international humanitarian law (IHL) should be applied.

The involvement of PMSCs in warfare is not new. However, in recent armed conflicts their numbers have increased significantly and the nature of their activities has changed, leading some commentators to speak of a growing "privatization" of war.

Their activities include protecting military personnel and assets, training and advising armed forces, maintaining weapon systems, interrogating detainees and, on occasion, even fighting.

The ICRC has not joined the debate about the legitimacy of using private companies. Its concern is compliance with IHL. In particular, it is concerned with the question of what obligations and rights PMSCs and their staff have, and what are the obligations of states using them?

The position of the companies and their staff is not straightforward. Non-state groups are bound by IHL during an armed conflict if they are parties to the conflict or when they carry out acts in connection with the conflict. PMSCs are generally not parties to the conflict, but their employees as individuals, depending on their particular roles and activities, are more likely to fall under IHL rules.

The majority of PMSC employees fall within the category of civilians as defined by IHL. In both international armed conflicts and non-international armed conflicts, their position is covered, and their protection assured, by the Fourth Geneva Convention, the Additional Protocols of 1977 and customary law. However, if they participate directly in hostilities, they lose the protection from attack afforded to them as civilians in both types of conflict.

Despite the occasional use in media reports of the word "mercenary" in relation to PMSC employees, that term has, in fact, a narrow interpretation under IHL and would not apply to most private contractors in recent conflicts. The obligation of states needs to be clarified. In very general terms, a state that employs private companies must ensure that IHL is respected by such companies, and that their staff are made aware of their obligations. States that have jurisdiction over private companies involved in armed conflicts also have obligations to ensure respect for IHL by those companies. In response to the increased presence of PMSCs, several international initiatives have been undertaken with a view to clarifying, reaffirming or developing international legal standards regulating their activities and, in particular, ensuring their compliance with standards of conduct reflected in IHL and human rights law
Also the most important part of the Geneva Convention is Article 47, which is;

1. A mercenary shall not have the right to be a combatant or a prisoner of war.

2. A mercenary is any person who:

(a) is specially recruited locally or abroad in order to fight in an armed conflict;

(b) does, in fact, take a direct part in the hostilities;

(c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;

(d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;

(e) is not a member of the armed forces of a Party to the conflict; and

(f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

5.2 The Montreux Document Guidelines

The Montreux Document is the first international document to reaffirm the international legal obligations of States regarding the activities of private military and security companies (PMSCs). It also contains a series of good practices designed to help States take appropriate measures to comply with their obligations under international law.

The Montreux Document expresses the consensus that international law also applies to PMSCs and that these do not operate in a legal vacuum. It is a practical and realistic contribution intended to promote compliance with international humanitarian law and human rights. It answers the legal questions raised by the use of PMSCs without creating new obligations

The first part of the Montreux Document distinguishes between Contracting States, Territorial States and Home States. It gives an overview of the pertinent international obligations arising from international humanitarian law and human rights law for each category. It also addresses a Contracting State's liability under customary international law for the conduct of private individuals. In this section, the pertinent international legal obligations of PMSCs and their employees, as well as the responsibility of their superiors, are also set out.

The second part of the Montreux Document highlights good practices for the regulation of PMSCs, such as introducing transparent regulations, licensing, and measures to improve supervision and liability. The aim of this section is to, inter alia, support States in implementing their obligations under international humanitarian law.

The Montreux Document Forum (MDF) was established in December 2014. It provides a platform for informal exchange among the participants of the Montreux Document, with the aim of supporting its implementation at the national level and encouraging other states and international organizations to endorse its content. To this end, the MDF has established a network for national supervisory authorities, open to the participating states of the Montreux Document. This initiative offers a dedicated platform to discuss regulatory challenges in the supervision of PMSCs and to address technical issues.

5.3 International Code of Conduct Standards

The Montreux Document formed the basis for the International Code of Conduct for Private Security Service Providers. This is the first international document and in 70 articles it outlines legal obligations and good practices for the personnel of private military and security companies. The rules of conduct it contains specify the companies' obligation to respect human rights, in particular regarding the use of force, detention, prohibition of torture, sexual abuse, human trafficking, forced labour and prohibition of discrimination. The Code of Conduct stipulates, for instance, that force is to be used exclusively in the self-defence of private security company personnel, for example in the event of escalating demonstrations and aggression towards security personnel or innocent bystanders where de-escalation efforts have failed. Private security companies can also use an appropriate level of force, for example if a property they are guarding is subject to burglary, theft or criminal damage. Furthermore, the code of conduct contains a series of provisions on company policy on personnel recruitment, working environment or weapons management.

Since the launch of the Code of Conduct, some 100 private security companies have pledged their adherence to the code by becoming members of the International Code of Conduct Association (ICoCA). These companies are active in various sectors. They protect diplomatic missions and NGOs in their humanitarian work, are helping to manage the COVID-19 pandemic and provide security services to numerous businesses in their day to day work.

Following the Code of Conduct's introduction, businesses, companies and NGOS worked together to establish an independent management and control mechanism, provided for in the Code. This mechanism, the International Code of Conduct Association, was founded in 2013 and is an association under Swiss law with headquarters in Geneva. The supervisory board is comprised of four private security companies, four NGOs and four States that meet a minimum four times a year. Switzerland is one of these States, represented by the FDFA's Human Security Division (HSD). As a neutral State, Switzerland plays a central role in discussions, supporting causes consistent with its fundamental values.

At these meetings the Association elaborates procedures for ICoCA certification, monitoring of security companies, assessment of services and processing of violations against the code of conduct. ICoCA certification for adherence to the code is currently in demand among private security companies because an increasing number of clients from the public and private sector require ICoCA membership from their security service providers. The Association is thus making an important contribution to the respect of human rights and international humanitarian law in regions affected by conflict or in fragile situations.Even though this ICoC is great it has a lot of gaps on the PMC and PMCS.

6. Human Rights Implications

6.1. Diffuse Chains of Command

The protection of human rights relies on a clear chain of command that identifies who planned, ordered, or failed to prevent a violation. In private military and security companies (PMSCs), however, this is quite complex; contractors are accountable to corporate executives, contracting authorities, and clients, while simultaneously operating alongside national forces and remaining outside of states' military justice systems. This fragmentation of the chain of command severs the link between the unlawful act and the responsible institution. Even when the client state exercises oversight, establishing accountability becomes difficult; states facing budget constraints or political risks continue to outsource mechanisms of coercion and exploitation. The proliferation of private security services is not a temporary phenomenon but a structural feature of contemporary conflict management. However, as the privatization of military and security services expands, legal frameworks, accountability mechanisms, and oversight capacities prove insufficient in the face of the authority and influence wielded by PMSCs. States can use these companies to directly evade legal responsibility and achieve *plausible deniability*. The absence of complaint mechanisms at national and international levels leads to legal impunity for allegations of the use of force and human rights violations. In light of international customary law, while entering into a contractual relationship alone does not automatically create international responsibility for the contracting state, violations committed by Special Operations Commands (SOCs) or their personnel may be attributed to the state under certain legal conditions. According to the Montreux Convention and the International Law Commission's rules on State Responsibility, the actions of SOC personnel are attributed to the state if they are integrated into the state's regular armed forces, are part of organized units under a command responsible to the state, are authorized by legislation to use elements of public authority, or act directly under the state's instruction, direction, or effective control. Senior officials and commanders may be held criminally liable under international law if they fail to prevent SOC personnel under their de facto authority and control from committing international crimes or fail to fulfill their supervisory obligations. However, command responsibility does not arise automatically merely from the existence of a contract; it necessitates the existence of de facto control authority. In cross-border operations, multiple legal obligations arise between the host state, the service recipient state, and the host state, as in the case of a UK-registered company being hired by an Italian public institution to provide security services in Afghanistan or the Middle East. The lack of capacity by host states in conflict zones to oversee and enforce laws against companies operating within their territories creates a significant legal vacuum that prevents accountability for human rights violations by companies operating abroad. In classical international human rights law, the fact that private companies are not directly bound by international treaties, combined with the lack of jurisdiction of national judicial bodies, can render accountability mechanisms completely ineffective. In contemporary armed conflicts, mercenary and private security activities have evolved from individual actors to structures formally integrated into state military apparatuses, yet continuing to pursue commercial and mining-oriented interests. A report submitted by the Centre for Mediterranean Peace and Security (CMPS) to the United Nations Working Group on Mercenaries highlights the emergence of a new model of "criminal governance" based on the hybridization of state structures, paramilitary actors, and illicit economies. The "security for resources" model, implemented in areas such as the Central African Republic and Mali, transforms security assistance into the permanent appropriation of natural resources. Within this system, the granting of mining concessions in exchange for security services creates extrajudicial enclaves where national administrative authority is rendered ineffective, international traceability mechanisms are disabled, and national financial sovereignty is eroded. The establishment of parallel logistics centers by corporations and the operation of informal taxation systems empirically leads to the privatization of sovereign state functions and the entrenchment of an autonomous paramilitary economy. These hybrid relationships with state military organs and complex command structures render traditional definitions of mercenary activity obsolete; institutionalizing impunity by making it extremely difficult to establish international accountability before the International Court of Justice (ICJ) or the International Criminal Court (ICC).

6.2 Jurisdictional patchwork

The increasing role of private military and security companies (PMSCs) in international conflicts and security matters creates a serious legal obstacle to the protection of human rights, known as *jurisdictional patchwork.* Jurisdictional patchwork refers to a situation where multiple countries have limited jurisdiction over a human rights violation committed by a private security personnel or company, or where no single country has the legal power to investigate the violation. The transnational nature of these companies leads to conflicts of jurisdiction between the country of citizenship of the employee who committed the crime, the country where the company is officially established, the state that purchased the service, and the country where the incident occurred. This creates a gray area that exploits the loopholes in traditional state-centric legal systems. As a result, serious human rights violations committed in conflict zones are lost in these legal gaps where criminal laws cannot be applied, and civilian victims cannot find a party to address their search for justice. The first two dimensions of this judicial patchwork are the disconnect between the "host state" where the incident occurred and the "main state" where the company is headquartered. The host state, where the crime was committed, theoretically has jurisdiction to prosecute all actions that occur within its borders. However, in practice, these countries often lack the capacity to operate their own courts and law enforcement agencies due to severe war conditions, internal unrest, or institutional collapse. Furthermore, host states may be obliged to grant legal immunity to personnel of private security companies due to bilateral agreements with powerful foreign states that contract these companies. On the other hand, the parent states where the companies are registered generally lack extraterritorial criminal laws to investigate crimes committed outside their borders. Parent states may choose to ignore violations committed by their foreign companies for reasons of protecting their own economic and commercial interests or for political reasons. The third and fourth dimensions of the complexity arise in the legal status of the "contracting state" that purchases the service and the employees recruited from different countries. For example, a private security company established in the United Kingdom might be hired by the Italian government to protect a public building or military facility in the Middle East or Afghanistan. In such complex relationships, the state purchasing the service considers the company an independent commercial contractor and argues that it cannot be held responsible for crimes committed by its personnel. Thus, instead of risking their own official armies or soldiers, states use private companies to avoid public backlash and legal responsibility. The fact that the personnel working for the company are citizens of different countries further complicates the process. In a violation involving a team of different nationalities, questions of gathering evidence, hearing witnesses, extradition, and determining which country's criminal code should be applied become completely intractable. Another critical element hindering the identification and prosecution of those responsible is the secrecy and complex corporate structures of private security contracts. Agreements between states or private companies are often classified as trade secrets, hidden from the public and regulatory bodies. These contracts do not contain clear rules to ensure compliance with employee human rights; instead, they stipulate additional payments to the company if certain security objectives are achieved. This encourages employees to act aggressively and use force rather than protect human rights. Furthermore, the main contractor's subcontracting of the work to other subcontractors completely severs the link between the person using the weapon and the actual customer purchasing the service. When victimized civilians seek justice by filing compensation lawsuits in the countries where the company is headquartered, they face procedural obstacles such as "lack of jurisdiction" rulings by the courts, high litigation costs, and immunity, and are unable to achieve results. The confusion of jurisdiction has reached an even more serious level in recent years with private military companies taking control of natural resources. In the "security for resources" model, which is widespread in Africa and the Middle East, private companies obtain mining rights and oil concessions in exchange for providing security services to states. In this system, seen in countries such as the Central African Republic and Mali, companies create independent zones that completely bypass the judicial and police oversight of the host state while protecting mining areas. This structure, where state structures, armed companies, and illegal commercial networks are intertwined, is called "criminal governance." The forced displacement of local people living around mining areas from their lands, the violent suppression of demonstrations, and the exploitation of natural resources are all examples of this.

Violations occurring during the transfer of arms are carried out without any official oversight. The combination of commercial greed and military power by companies increases pressure on local populations and makes human rights violations a commonplace part of trade. The expansion of the operational capabilities of private military companies has also created an unregulated environment in the global arms trade and the use of advanced technology. These companies are no longer merely actors providing personal protection, but have transformed into giant entities offering unmanned aerial vehicles (UAVs), cyber penetration tools, electronic warfare systems, and intelligence technologies all in one place. Private companies, by illegally transferring heavy weapons to conflict zones in violation of United Nations arms embargoes, escalate the conflicts and increase civilian casualties. Companies supported by some states can buy and sell weapons in multiple countries without any oversight. Since existing international arms control agreements are primarily designed to regulate the behavior of states, the uncontrolled use of these technologies by private companies and their direct involvement in conflicts renders legal oversight mechanisms completely ineffective. The most severe consequences of this jurisdictional confusion and lack of legal protection are borne by civilians, women, and children. United Nations reports show that the opaque command chains and unchecked operations of private military companies are directly linked to grave human rights violations against children. In cases such as the killing and maiming of children, attacks on schools and hospitals, and the obstruction of humanitarian aid, perpetrators cannot be prosecuted due to complex contracts and ambiguous liability structures. Furthermore, the militarized environments created by these companies lead to the displacement of local communities, the collapse of education and health services, and the paralysis of civilian life in the region. The absence of oversight mechanisms also leads to the cover-up of cases of sexual abuse and excessive use of force by employees of these companies. There are various initiatives within the current international legal system to overcome this jurisdictional confusion. The Montreux Convention, prepared by the Swiss Government and the International Red Cross Committee, and the International Code of Conduct (ICoCA) standards, define fundamental principles that states and companies must adhere to. However, since these texts are not binding laws but rather advisory recommendations, they do not have the authority to impose criminal sanctions in case of violations. The United Nations Working Group on the Use of Mercenaries argues that the fragmented nature of national legislation fosters impunity and advocates for the adoption of a binding international convention overseeing the cross-border activities of private military and security companies. To eliminate judicial confusion, it is essential that states enact extraterritorial criminal laws to prosecute their own companies for their actions abroad, make private security contracts public, abandon bilateral immunity agreements, and establish independent complaint mechanisms for victims.

7. Question to be Addressed

1. How can the international community ensure that Private Military Companies are held accountable for human rights violations?

2. How can states prevent Private Military Companies from avoiding legal responsibility through unclear chains of command?

3. How can the jurisdictional gaps between home states, host states, and contracting states be eliminated?

4. How can existing frameworks such as the Montreux Document and the International Code of Conduct be strengthened to improve accountability?

5. How can the international community regulate the use of advanced technologies, such as drones and cyber tools, by Private Military Companies?

6. How can recruitment and training standards for Private Military Company personnel be improved?

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