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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Recruitment, including predatory recruitment, of
mercenaries and mercenary-related actors****Report of the Working Group on the use of mercenaries as a means of
violating human rights and impeding the exercise of the right of peoples
to self-determination***Summary*

In the present report, the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination examines the recruitment of mercenaries and mercenary-related actors and the phenomenon of predatory recruitment. The recruitment of mercenaries and mercenary-related actors has increased in conflict, post-conflict and conflict-affected contexts, intensifying the risk of violations of human rights and international humanitarian law. The recruitment of mercenaries and mercenary-related actors is conducted by a variety of actors, including States and non-State actors. Examining the mechanisms through which the recruitment of mercenaries takes place, the entities involved in the recruitment, the profile of the individuals recruited, the contexts in which mercenaries and mercenary-related actors are recruited and other relevant aspects surrounding the practice is key to tackling the phenomenon of mercenarism. In this context, the Working Group has observed with concern a trend towards the entrenchment of the phenomenon of predatory recruitment, whereby individuals are recruited in a way that takes advantage of their socioeconomic status and other vulnerabilities and may involve different forms of exploitation. In the report, the Working Group urges States to take an approach that addresses the root causes of recruitment, including predatory recruitment, to tackle the scourge of mercenarism.

During the preparation of the present report, the Working Group was composed of Ravindran Daniel (Chair), Sorcha MacLeod, Jelena Aparac, Chris Kwaja and Carlos Salazar Couto.



I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 51/13, in which the Council renewed the mandate of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, which was established pursuant to Commission on Human Rights resolution 2005/2. The report covers the activities of the Working Group since its previous report to the Council.¹ The thematic section of the report contains an analysis of the recruitment, including predatory recruitment, of mercenaries and mercenary-related actors.

II. Selected activities of the Working Group

A. Annual sessions

2. The Working Group on the use of mercenaries held its forty-sixth, forty-seventh and forty-eight sessions from 18 to 22 July 2022, 21 to 25 November 2022 and 17 to 21 April 2023, respectively. During the sessions, the Working Group held bilateral meetings with representatives of Member States, international and non-governmental organizations and other relevant interlocutors. In November 2022, Ravindran Daniel was appointed as the new Chair-Rapporteur of the Working Group.

B. Communications and statements

3. The Working Group sent several communications jointly with other special procedure mandate holders. Allegation letters were sent to a Government and a non-State actor regarding allegations of the recruitment of prisoners for a private military and security contractor and their deployment in Ukraine; a joint media statement was also issued on the basis of those allegations. An allegation letter was addressed to a Government regarding alleged human rights violations perpetrated by mercenaries in Mali; a joint media statement was also issued on those allegations. Furthermore, an allegation letter was sent to a non-State actor concerning allegations of the unlawful conviction of three individuals for mercenarism, among other crimes, and the alleged non-observance of their status as prisoners of war.

C. Selected activities

4. On 20 September 2022, Sorcha MacLeod presented the report of the Working Group on access to justice, accountability and remedies for victims of mercenaries, mercenary-related actors and private military and security companies.²

5. On 7 December 2022, Ms. MacLeod participated in the General Assembly of the International Code of Conduct for Private Security Service Providers' Association.

6. In January 2023, the Working Group convened two virtual multistakeholder expert consultations to inform its 2023 reports to the General Assembly and the Human Rights Council.

7. The Working Group participated in the fourth session of the open-ended intergovernmental working group to elaborate the content of an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, which was held from 17 to 21 April 2023.

¹ [A/HRC/51/25](#).

² *Ibid.*

D. Country visits

8. The Working Group places great importance on undertaking country visits and has sent numerous requests for country visits and reminders to follow up on previous letters. The Working Group received four letters of acceptance, from the Governments of Bulgaria, Maldives, Nigeria and Poland. The Working Group extends its thanks to all the Governments that responded favourably to its requests for country visits and remains engaged in the planning of its forthcoming country visits.

9. During the reporting period, the Working Group conducted official visits to Greece, from 9 to 16 December 2022,³ and to Armenia, from 20 to 27 February 2023.⁴

III. Thematic report

10. The Working Group has observed through its work an increase in the recruitment, financing, training, use and transfer of mercenaries and mercenary-related actors in conflict, post-conflict and conflict-affected contexts and the ways in which the phenomenon increases substantially the risk of violations of human rights and international humanitarian law. It has noted that, in many instances, the ongoing recruitment and presence of mercenaries and mercenary-related actors prolong conflicts, amplify levels of violence against civilians, increase the risk of human rights abuses and violations of international humanitarian law, undermine peace efforts and destabilize regions.⁵ The recruitment of mercenaries and mercenary-related actors is conducted by a variety of actors, including State and non-State actors, which range from commercial entities to opposition groups, domestic resistance movements and criminal organizations. There is an inherent lack of transparency surrounding the recruitment of mercenaries and mercenary-related actors, but prohibitions on recruitment are found in international, regional and national legal frameworks. An examination of the mechanisms through which the recruitment of mercenaries takes place, the entities involved in such recruitment, the profile of the individuals recruited, the contexts in which they are recruited and other relevant aspects surrounding the practice will lead to a better understanding of fundamental and neglected elements of mercenarism. To that end, the present report is focused on building knowledge of the drivers of recruitment as a key component in addressing and combating mercenarism and preventing the violations of human rights and international humanitarian law perpetrated by mercenaries and mercenary-related actors. The Working Group has observed with concern a trend towards the entrenchment of the phenomenon of predatory recruitment, which it first alluded to in its report to the General Assembly in 2020.⁶ Predatory recruitment is the practice whereby individuals are recruited as mercenaries in ways that take advantage of their vulnerability, with those targeted including conflicted-affected populations, migrants, internally displaced persons, children and incarcerated individuals. This form of recruitment may also take advantage of an individual's socioeconomic status and other vulnerabilities and may involve coercion or fraud. The report highlights different aspects of predatory recruitment including: (a) the root causes of the practice, with a focus on the factors that contribute to the vulnerability of those targeted; (b) the profile and background of the individuals vulnerable to predatory recruitment; (c) violations of human rights and international humanitarian law perpetrated in this context; and (d) the obstacles encountered by victims in accessing justice and remedy.

11. The report is based on extensive desk research, contributions collected during a multistakeholder expert consultation, held in January 2023, and responses to a call for written submissions.⁷ During the preparation of the report, it became evident that there was limited

³ See [A/HRC/54/29/Add.1](#).

⁴ See [A/HRC/54/29/Add.2](#).

⁵ See <https://www.ohchr.org/en/statements/2022/03/statement-un-working-group-use-mercenaries-warns-about-dangers-growing-use?LangID=E&NewsID=28210>.

⁶ [A/75/259](#), para. 15; and [A/HRC/51/25](#). See also communications AZE 2/2020, TUR 21/2020, TUR 7/2020, OTH 8/2023, RUS 17/2022, LBY 1/2020 and RUS 1/2020. All communications mentioned in the present report are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

⁷ See <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-report-working-group-use-mercenaries-be-presented-human-rights>.

public information, data and research on the recruitment of mercenaries and mercenary-related actors. The lack of attention and reporting on the specific issue confirmed the urgent need for further research and action. The inherent lack of transparency surrounding recruitment and the broader issues of financing, training and the use of mercenaries and related actors in contemporary conflicts remains a key research challenge.

IV. International regulatory framework in relation to recruitment

12. The different regulatory responses at the international level to the mercenary phenomenon have addressed what can be identified as three different categories of mercenarism: by an individual; by a third party involved in recruitment, use, financing and training; and by a State. The international legal framework of mercenarism addresses and, in some instances, prohibits the recruitment of mercenaries and sets out the obligations of States in this regard. The obligation of States to prevent the recruitment or organizing of mercenary forces is reflected in the law of neutrality, considered as customary law. Article 4 of the Convention respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land stipulates that corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral power to assist the belligerents. This provision imposes an obligation upon States to prevent such activities from occurring on their territory. Failing to do so would entail a violation of their obligations under international law. However, there is no obligation imposed upon States under customary law to prevent their own nationals from joining a mercenary force (art. 6).

13. Furthermore, Article 2 (4) of the Charter of the United Nations prohibits the use of force by one State against another, except in very specific circumstances (self-defence and enforcement measures sanctioned by the Security Council). The General Assembly and the Security Council have adopted resolutions addressing the use of mercenaries.⁸ In relation to recruitment, the General Assembly has referred not only to the negative duty of States to refrain from organizing or encouraging the organization of mercenaries for incursion into the territory of another State, but also to their positive duty to prevent on its territory the training, financing and recruitment of mercenaries.⁹ In addition, the Assembly has called upon States to adopt legislation making the recruitment, financing and training of mercenaries in their territories punishable offences and prohibiting their nationals from serving as mercenaries.¹⁰

14. Article 47 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), sets out a definition of the term “mercenary” and includes as one of the cumulative requirements that the individual be specially recruited locally or abroad in order to fight in an armed conflict. Although article 47 concerns the definition and non-combatant status of mercenaries, it does not address the legality of mercenary activities or establish the responsibility of those who participate in them, including recruitment.

15. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries applies to areas beyond armed conflict and sets out a number of offences that may be committed by individual mercenaries, individuals involved in the recruitment, use, financing or training of mercenaries and State parties. Article 1 reflects the definition of a mercenary contained in article 47 of Protocol I Additional to the Geneva Conventions of 1949, except for the requirement of direct participation in hostilities. Under the Convention, an offence is committed by any person who recruits, uses, finances or trains mercenaries (art. 2), attempts to commit one of the offences set forth in the Convention or is the accomplice of a person who commits or attempts to commit any of those offences (art. 4). This offence

⁸ See, for example, General Assembly resolution 3314 (XXIX) and Security Council resolution 2656 (2022).

⁹ See Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States.

¹⁰ See, for example, General Assembly resolutions 2465 (XXIII) and 40/25.

is committed even when suspected mercenaries have not yet taken part in the hostilities.¹¹ The Convention imposes upon States parties positive and negative obligations. States should not recruit, use, finance or train mercenaries and should take the appropriate measures to prevent these activities.¹² In addition, the offences established in the Convention should be punishable by appropriate penalties (art. 5). Furthermore, the Convention sets out a framework for the prosecution of offenders at the national level (arts. 12–15).

16. Regionally, the Organization of African Unity Convention for the elimination of mercenarism in Africa establishes that the crime of mercenarism can be committed by an individual, group or association representative of a State and the State itself when, with the aim of opposing by armed violence a process of self-determination, the stability or the territorial integrity of another State, it practises any of the acts listed in the Convention. This includes sheltering, organizing, financing, assisting, equipping, training, promoting, supporting or in any manner employing “bands of mercenaries” and allowing the activities to be carried out in any territory under its jurisdiction (art. 1). In addition, the African Convention imposes upon States parties the obligation to prevent on its territory any of the acts mentioned in article 1 and to prohibit the recruitment, training, financing and equipping of mercenaries and any other form of activity likely to promote mercenarism (art. 6). Furthermore, States parties should make the offences defined in article 1 punishable by the severest penalties under their national legislation (art. 7).

V. General overview on the recruitment of mercenaries, mercenary-related actors and private military and security companies

A. Historical overview of the recruitment of mercenaries

17. Mercenary activity is not a new phenomenon. Mercenaries have been recruited and have played an integral role in warfare throughout history. However, during the late nineteenth century and the latter half of the twentieth century, two developments in international law caused a shift in the international community’s attitude towards the use of force.¹³ The first of these developments was the formulation of multilateral agreements designed to discourage war and the second was the emergence of neutrality laws. As a result, Governments started to consider mercenary activity by their nationals as a potential breach of the law of neutrality and many adopted legislation prohibiting the enlistment and recruitment of mercenaries and related actors in their territory.

18. As developing countries started to gain their independence after the Second World War, strong opposition to the activities of mercenaries emerged. Substantial international concern regarding mercenary activity arose in the early 1960s as a result of their use during the Congolese war, where mercenaries were used by various political factions fighting for control of the Congo. Africa continued to be a battleground for mercenaries during the late 1960s and early 1970s and the mercenaries operating in that context were rightly perceived

¹¹ See [A/36/43](#). Reference to “direct participation in hostilities” in article 1 (b) was not included, given that requiring direct participation in the hostilities would exonerate, for example, mercenaries who intended to carry out an operation abroad but were stopped or intercepted while on their way to their destination and those involved in the recruitment and other forms of facilitation prior to direct participation by mercenaries.

¹² *Ibid.* The Ad Hoc Committee noted that its main task was to devise measures to eliminate mercenarism as a system. Furthermore, it highlighted that the Convention should not only provide for individual criminal responsibility and recognize that the direct participation of a mercenary in armed activities was a serious crime and should be punished as such but should also uphold the duty of States to take all necessary steps of a penal and administrative nature to prevent the use, recruitment, financing and training of mercenaries in their territory.

¹³ Paul W. Mourning, “Leashing the dogs of war: outlawing the recruitment and use of mercenaries”, *Virginia Journal of International Law*, vol. 22 (1982).

as a symbol of racism and neocolonialism.¹⁴ Often they were hired to prevent the drive towards self-determination and independence in colonial territories by stepping in the way of national liberation movements in their struggle against foreign control. The Assembly of Heads of State and Government of the Organization of African Unity denounced mercenary aggression on various occasions during that period and urged all States to adopt laws making the recruitment and training of mercenaries a criminal offence.¹⁵ Furthermore, the use of mercenaries in colonial territories against movements for national liberation and independence was declared a criminal act by the General Assembly in the late 1960s, echoing the appeal of the Organization of African Unity.¹⁶ The first major step towards the establishment of an effective legal enforcement system directed towards States' obligation to prohibit and punish any activities relating to mercenaries occurred with the drafting of the Organization of African Unity Convention for the elimination of mercenarism in Africa. The regulation of mercenary activity developed further with the adoption of a much broader definition of "mercenary" and the prohibition of the recruitment, use, financing and training of mercenaries in the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

19. The post-cold war period witnessed the emergence of novel categories of mercenaries in the context of conflicts driven by the resurgence of extreme nationalism and ethnic and religious intolerance and an increase in non-State actors with the potential to fuel conflict. The military downsizing of traditional military powers after the cold war and their disengagement from selected zones of influence, particularly Africa, created a demand for more privatized military and security options and also provided an ample supply of former soldiers.¹⁷ The increase in supply occurred in parallel with a demand for military skills in the private market, including from Western States that had downsized their militaries, countries seeking to upgrade their militaries, rulers of weak or failed States no longer supported by stronger States and from non-State actors, such as private firms and non-governmental organizations.¹⁸ The growth of the private military and security market developed in a context in which some States were reluctant to directly involve themselves in conflict and other States required external support to control internal security situations. By the 1990s, the demand for military and other security skills in the private market had increased substantially, driven in particular by the global war on terror. The use of private military and security contractors¹⁹ has enabled Governments and other actors to circumvent political constraints on the use of force. Such actors provide a variety of legitimate and illegitimate services, including, in some cases, combat services that reach the level of mercenarism, creating a blurred legal and accountability landscape.

B. Private military and security companies and their personnel

20 The private military and security industry offers a wide range of services, including military consulting and support, and other entities may provide combat services and engage

¹⁴ James L. Taulbee, "Myths, mercenaries and contemporary international law", *California Western International Law Journal*, vol. 15, No. 2 (1985).

¹⁵ In its resolution 49 (IV), the Assembly of Heads of State and Government of the Organization of African Unity requested all States of the world to enact laws declaring the recruitment and training of mercenaries in their territories a punishable crime and deterring their citizens from enlisting as mercenaries.

¹⁶ General Assembly resolution 2465 (XXIII).

¹⁷ E.L. Gaston, "Mercenarism 2.0? The rise of the modern private security industry and its implications for international humanitarian law enforcement", *Harvard International Law Journal*, vol. 49, No. 1, (2008).

¹⁸ Deborah Avant, "The emerging market for private military services and the problems of regulation", in *From Mercenaries to Market: The Rise and Regulation of Private Military Companies*, Simon Chesterman and Chia Lehnhardt, eds. (Oxford, Oxford University Press, 2007).

¹⁹ The Working Group uses the term "private military and security company" to refer to a corporate entity which provides on a compensatory basis military and/or security services by physical persons and/or legal entities. For the full definition, see article 2 of the draft of a possible convention on private military and security companies for consideration and action by the Human Rights Council (A/HRC/15/25, annex).

in actual fighting in armed conflicts.²⁰ The provision of consultancy or training is legitimate under international law, but the provision of combat services is not. The increase in the privatization of force is of particular concern. With States as their main clients, such actors often contribute to the proliferation and diffusion of weaponry and armed personnel around the world, which may be a destabilizing and undesirable phenomenon in the different contexts in which they operate. In terms of the different ways in which they are organized and carry out their activities, private military and security companies have been considered to represent the evolution of private actors in the context of war, recruiting more proficiently than their predecessors and providing a wide range of military services to a larger number of clients.²¹ The corporatization of these actors allows them to make use of complex corporate financing and to engage in more deals and contracts with their clients. Their personnel are often former soldiers who are offered considerably higher pay than what is offered by State militaries. Furthermore, the recruitment of their personnel is often undertaken through internal databases from which they recruit individuals to fill the contracts that they obtain. Individual contractors are listed in several databases and move easily from one contract to another or operate on a freelance basis.

21. Many of the activities performed by private military and security companies cannot be considered to be mercenary activities under the existing international legal framework and, accordingly, their contractors would rarely fall within the international legal definition of mercenary. Such actors have, however, been described as representing new modalities of mercenarism.²² There are cases in which contractors are recruited by a company contracted by a State to provide military services in an armed-conflict zone and, in this context, such individuals could fall under the mercenary category.²³ The contracts between the companies and the recruits are often not accessible to the public, which limits the information available in this regard, although those between companies and Governments, in some cases, are available online. Examples in which recruited contractors could be considered to have been mercenaries include the following: in 1993, the Government of Angola contracted Executive Outcomes to train the armed forces of Angola and to direct operations against a rebel movement and, in 1997, the Government of Papua New Guinea entered into a contract with Sandline International to defeat the Bougainville Revolutionary Army. In another example, in 2020, the Working Group issued a communication regarding the alleged direct participation in hostilities by personnel of the private military and security company Keenie Meenie Services Ltd. during the armed conflict in Sri Lanka between 1984 and 1988. The Working Group expressed concern that investigations did not appear to have been carried out into the company's activities and about the alleged human rights violations and war crimes perpetrated by the private contractors in that context.²⁴

C. Contexts in which mercenaries operate

22. The current complex international peace and security context has created a space for the ongoing recruitment of mercenaries and related actors in and out of different conflict situations around the world. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries recognizes that mercenaries operate in two scenarios: armed conflicts and concerted acts of violence aimed at overthrowing a Government or otherwise undermining the constitutional order of a State or undermining the territorial integrity of a State. International conflict and internal conflict have been identified as the

²⁰ Zoe Salzman, "Private military contractors and the taint of a mercenary reputation", *New York University Journal of International Law and Politics*, vol. 40, No. 3, p. 853 (Spring 2008).

²¹ P.W. Singer, "Corporate warriors: the rise of the privatized military industry and its ramifications for international security", *International Security*, vol. 26, No. 3 (2001).

²² See [A/HRC/10/14](#); and [A/62/301](#), paras. 68 and 69. The Working Group defines the term "private military and security company" as a corporate entity which provides on a compensatory basis military and/or security services by physical persons and/or legal entities ([A/HRC/15/25](#), annex, part I, art. 2).

²³ Marina Mancini, Faustin Z. Ntoubandi and Thilo Marauhm, "Old concepts and new challenges: are private contractors the mercenaries of the twenty-first century?", in *War by Contract: Human Rights, Humanitarian Law, and Private Contractors*, Francesco Francioni and Natalino Ronzitti, eds. (Oxford, Oxford University Press, 2011).

²⁴ See communications LKA 3/2020, GBR 4/2020 and OTH 46/2020.

primary factors attracting mercenaries and mercenary-related actors to a particular country or region. Other elements of particular relevance in relation to their recruitment include the proliferation of armed non-State actors, the involvement of third parties in supporting the parties to a conflict and disproportionate differences in the methods and means of warfare used by parties to a conflict.²⁵ In many instances, the presence of such actors prolongs the conflict, acts as a destabilizing factor and undermines peace efforts.²⁶ Furthermore, the recruitment and sending of mercenaries and mercenary-related actors to conflict zones exacerbate the risk of conflicts spreading to other regions. The selling of military force as a commodity on the market and the economic benefit that it represents for those involved in mercenary and mercenary-related activities are factors that may lead to the prolongation and aggravation of conflicts. The operations of mercenaries and mercenary-related actors increase the risk of human rights abuses and violations of international humanitarian law. Such actors are often involved in human rights violations, including extrajudicial killings, enforced disappearance, rape, sexual and gender-based violence, arbitrary detention and torture and war crimes and crimes against humanity.

23. In the context of international and non-international armed conflict, the demand for mercenary services is driven by a number of actors. In the context of inter-State conflicts, mercenary and mercenary-related actors are recruited mainly by States. In the most recent non-international armed conflicts, which have often involved a State against an armed non-State actor or two or more non-State actors against each other (e.g. opposition groups, domestic resistance movements or criminal organizations), mercenaries have been recruited by both types of belligerents. A key aspect of contemporary armed conflicts is the increasing involvement of third parties seeking to influence a conflict, such as a particular State or a coalition of States or missions deployed by international and regional organizations. This third-party or proxy intervention may involve the recruitment and provision of mercenary and mercenary-related personnel by the third party to one party to a conflict for the purpose of directly participating in hostilities and weakening the military capacities of the other party. The Working Group has received information regarding recent armed conflicts that indicates that this form of intervention is being used, particularly by States, and that it leads to an increase in the recruitment of mercenaries and related actors.

D. Traditional profiles of mercenary recruits

24. The relevant anti-mercenary legal instruments share a similar definition of a mercenary containing several cumulative criteria that each have to be fulfilled in order for the definition to apply. The definition of a mercenary can be summarized as follows: a mercenary is a fighter who is not a member of the armed forces of a State party to a conflict and fights primarily for financial gain.²⁷ The scope of the definition is problematic and the criteria difficult to meet, especially considering contemporary forms of mercenary-related activities and actors. Traditionally, mercenaries have been recruited from the ranks of retired military personnel, drawing particularly on their combat training and expertise. In practice, mercenaries who meet this traditional profile remain active in current conflicts and are conventionally considered to be individuals based in a unit of operation. Ad hoc groups are formed from loose networks of individuals, often providing their services to one client.²⁸ Such individuals have military skills directly applicable to combat or for providing immediate combat support. However, they often lack cohesion and discipline and their strategic impact can be limited.²⁹ They often get involved in mercenary activities by responding to advertisements placed by recruiters through various channels. In recent years, more

²⁵ See [A/75/259](#).

²⁶ See https://www.ohchr.org/en/statements/2022/03/statement-un-working-group-use-mercenaries-warns-about-dangers-growing-use?LangID=E&NewsID=28210_

²⁷ See [A/71/318](#).

²⁸ E.L. Gaston, "Mercenarism 2.0?"

²⁹ P.W. Singer, "Corporate warriors: the rise of the privatized military industry and its ramifications for international security", *International Security*, vol. 26, No. 3 (2001).

systematized forms of recruitment have emerged, especially online.³⁰ Such individuals tend to demand payment in cash and often constitute a temporary fighting force for a particular task, with no permanent organizational structure or long-term interest beyond the mission for which they have been recruited. The loose structure of ad hoc mercenary groups makes them less integrated into the regulatory structure that restricts the use of force and, in reality, they are expected to use excessive force and to violate human rights and international humanitarian law.³¹

VI. Predatory recruitment

25. In contrast to the traditional recruitment profile of mercenaries, recent years have seen the phenomenon of predatory recruitment take root in multiple armed conflicts. The Working Group is increasingly receiving reports of the practice.³² It can be defined as a form of recruitment of individuals for mercenarism that takes advantage of their socioeconomic status or other vulnerabilities and that, in some instances, may involve coercion or fraud. The Working Group has noted with concern the ways in which mercenaries and related actors are using such recruits and the human rights violations perpetrated around their recruitment. The increased involvement of third-party States in armed conflicts has been identified as a context in which individuals can be recruited in a predatory form and deployed in so-called proxy wars. The recruitment of mercenaries in this context often involves complex networks of recruiters of States, armed non-State actors, private military and security contractors and local intermediaries close to the communities of the recruits. Furthermore, the recruitment is often opaque and characterized by a lack of information regarding the recruiters, the payment and the chains of command under which the recruiters operate.³³ This contributes to the vulnerability in which individuals targeted for predatory recruitment find themselves and is also a factor contributing to human rights violations and violations of international humanitarian law in the context of conflict. There are reports that there is a substantial difference between traditional mercenaries and the predated recruits, who are frequently poorly equipped and less well-trained, and in the ways in which the two are being used, with predated recruits deployed to the front lines to protect other personnel, resulting in disproportionately high casualty rates.³⁴

A. Root causes of predatory recruitment

26. Individuals falling prey to predatory recruitment often belong to less advantaged groups and encounter various obstacles to the realization of their most basic human rights, including social and economic rights. The practice of predatory recruitment, similarly to other problematic phenomena, including violent extremism and piracy, has its root causes in existing inequalities affecting countries at large, which translate into discrimination, the persistence of poverty, a lack of work opportunities, the denial of education and a lack of access to health care, among other factors. Consequently, an understanding of the phenomenon of predatory recruitment requires a consideration of the particular contexts in which it thrives and the ways in which its prevalence is linked to social and economic inequalities worldwide, making particular groups of individuals vulnerable to falling prey to the practice. Furthermore, predatory recruitment can be considered, in some cases, as a practice that, in itself, violates the human rights of recruits. The Working Group has received information that, in some instances, the process of recruitment constitutes the initial stage of

³⁰ Thomas K. Adams, "The new mercenaries and the privatization of conflict", *Parameters*, vol. 29, No. 2 (Summer 1999).

³¹ Sarah Percy, *Mercenaries: The History of a Norm in International Relations* (Oxford, Oxford University Press, 2007).

³² Information received by the Working Group to inform the report. See also communications AZE 2/2020, TUR 21/2020, TUR 7/2020, OTH 8/2023, RUS 17/2022, LBY 1/2020 and RUS 1/2020.

³³ See communications AZE 2/2020, TUR 21/2020, TUR 7/2020, OTH 8/2023, RUS 17/2022, LBY 1/2020 and AL RUS 1/2020.

³⁴ Information gathered by the Working Group during the expert consultation on recruitment, including predatory recruitment, and information submitted to inform the report.

various forms of exploitation that include debt bondage, forced labour and trafficking in persons.³⁵

27. Armed conflict and other instances of social unrest are often the result of severe inequality and the deterioration or violation of individuals' economic and social rights as reflected in unemployment, diminished living standards and unequal access to social services.³⁶ An example of this is the heightened likelihood of internal conflict due to economic inequality between ethnic groups. The root causes of such inequalities are linked to deeply entrenched patterns of discrimination based on various factors, including race, gender, religion, migrant status, age, disability and sexual orientation, among others.³⁷ The sustained or chronic deprivation of resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights pushes individuals into a situation of poverty. Societies in which poverty is prevalent and that are characterized in particular by economic, social, political and educational exclusion are often recruitment grounds for entities involved in organizing mercenary activities. The situation of poverty that affects the ability of individuals to enjoy a wide range of rights, including their rights to work, education, food and health, puts them at risk of being victims of exploitation or of falling prey to such practices as predatory recruitment. Furthermore, in conflict and post-conflict situations, the vulnerability of the most marginalized is exacerbated, including that of refugees, internally displaced persons, migrants, minorities and other populations directly affected by conflict, contributing to an increased risk of human rights violations.

28. Economic inequality has a number of detrimental human rights effects, perpetuating social exclusion and creating obstacles to accessing health care, education and other services essential for the enjoyment of economic and social rights. The lack of access to decent work, particularly for individuals belonging to vulnerable groups, contributes to such inequalities and increases the susceptibility of such individuals to working in the informal economy and to various forms of exploitation, including forced labour.³⁸ Currently, across different countries, a large number of young people are in neither education nor employment or are forced to work in suboptimal conditions, making them more prone to poverty and marginalization. Such situations can lead them to get involved in various activities that could put them at risk of exploitation. Furthermore, the coronavirus disease (COVID-19) health emergency had an economic impact that severely affected the right to work and had consequences on economic and social rights.³⁹ This resulted in an unprecedented level of job loss at the global level, particularly affecting those who were in a situation of vulnerability prior to the pandemic and prompting them to seek other sources of income, including in connection with mercenary and mercenary-related activities. In one recent case, for example, an individual who had migrated to another country and who had become unemployed there in the aftermath of the COVID-19 pandemic and had returned to his country of origin was convicted of mercenarism after the court concluded that he had been recruited to fight in support of the armed forces of a foreign country in return for financial gain and citizenship.

B. Practice of predatory recruitment

29. The Working Group received information that the recruitment of mercenary and mercenary-related actors often entailed predatory practices that targeted, in particular, men, often young, from low socioeconomic and conflict-affected backgrounds, who saw the involvement in such activities as a way to escape extreme poverty.⁴⁰ Often, this type of recruitment is exploitative and intimidatory and takes place informally, without written contracts, with only a verbal agreement between the recruiter and the recruit. Such individuals are often lured into enlisting by false promises of economic stability and

³⁵ Information gathered by the Working Group during the expert consultation.

³⁶ [A/HRC/40/29](#), para. 6.

³⁷ See [A/77/235](#), [A/77/203](#) and [A/72/502](#).

³⁸ International Labour Office, *Ending Forced Labour by 2030: A Review of Policies and Programmes* (Geneva, International Labour Organization, 2018).

³⁹ See [A/HRC/46/43](#).

⁴⁰ Information gathered during the expert consultation and information submitted to inform the report.

citizenship for themselves and, in some cases, for their families. Frequently, they are recruited through deceitful tactics and without clarity as to the type of activities that they will be involved in. In some cases, they find themselves deceived into directly participating in hostilities once they arrive in the country where they are to perform their duties. Upon arrival in the country of destination, they are often paid considerably less than they were promised and compensation promised to them or to their families in the event of their death or injury may or may not be received as agreed. Recruitment under duress or out of fear of reprisal against their families, particularly against women and girls, is a common tactic used by recruiters. Recruits may find themselves in a situation of debt bondage and trapped into working for little remuneration, which goes to repay to their recruiters the costs associated with the provision of basic needs, such as food, water, accommodation and supplies. They may also be subjected to severe restrictions on their freedom of movement once they arrive in the country in which they engage in mercenary or mercenary-related activities.

30. Individuals recruited in a predatory manner often suffer from multilayered aspects of victimization and may belong to vulnerable groups in their own countries or the countries in which they find themselves at the time of recruitment. Their vulnerability is often exacerbated by the recruitment process and aggravated by their deployment in hostilities in foreign countries or their involvement in combating domestic social unrest, putting their lives and physical integrity at risk.⁴¹ The individuals most affected by predatory recruitment or vulnerable to it include those living in severe poverty, less advantaged young people who find themselves with limited opportunities within their societies due to discrimination and marginalization, young men previously engaged in armed conflicts and refugees and internally displaced persons, particularly those settled in camps.⁴² The Working Group has received information on predatory recruitment by private military contractors of prisoners serving custodial sentences in countries of which they were not nationals and their deployment to a different country.⁴³ In this context, private military and security contractors allegedly carry out recruitment campaigns within prisons and persuade prisoners to enlist in order to participate in armed conflict. Furthermore, recruiters use pressure tactics that suggest that enlistment is often not voluntary. Any work or service extracted from individuals under such conditions would amount to forced labour. Such individuals may be offered amnesty or a pardon of their prison sentences and compensation for them and their families. There are also cases of recruits, particularly young men, being offered the quashing of criminal records and granted pardons for dodging conscription in exchange for enlisting with private military and security contractors.⁴⁴ The Working Group received information that, in some cases, when criminals recruited to carry out mercenary or mercenary-related activities returned to their communities, they committed violent crimes. It has also been reported that predated prison recruits are induced to consume drugs to improve their performance and provoke aggression. They also appear to have withdrawal symptoms. This may be contributing to the crimes reported to have been perpetrated by recruits when they returned to their hometowns.⁴⁵

31. After falling prey to the practice of predatory recruitment, recruits are often victims of human rights violations while carrying out the activities for which they were recruited. They are exposed to enforced disappearance, often not being allowed to be in contact with their relatives, who in many cases are unaware of their whereabouts and their involvement in mercenary-related activities. They are also subjected to threats and ill-treatment by their recruiters and, in some cases, executed for disregarding their supervisors' orders. They may be victims of various forms of exploitation, including forced labour and debt bondage. Furthermore, recruits often sustain serious and life-threatening injuries, including those resulting in long-term disabilities, and are denied the proper medical treatment and compensation for their injuries, which often had been promised to them when they were recruited. In the cases in which they return home, some recruits, as a result of their experience

⁴¹ Information gathered during the expert consultation and information submitted to inform the report.

⁴² Information gathered during the expert consultation and information submitted to inform the report.

⁴³ See communications RUS 17/2022 and OTH 8/2023.

⁴⁴ Syrian Center for Media and Freedom of Expression, "Shadow armies: a report on the phenomenon of mercenary recruitment in Syria" (Paris, 2022).

⁴⁵ Information gathered during the expert consultation and information submitted to inform the report.

and related trauma, develop drug addiction, leading to family fragmentation and domestic violence against women family members.

32. The practice of predatory recruitment has damaging repercussions and harmful effects on the recruits' families and communities left behind.⁴⁶ The families of recruits often lose their sole breadwinner when their relative is killed or injured, leaving family members, particularly women and children, in an even more vulnerable and precarious situation, considering that they often belong to marginalized communities. This puts women and girls at particular risk of various forms of exploitation, including sexual exploitation. In this context, families are often deceived about the whereabouts and well-being of the recruits and can be taken advantage of by individuals claiming to offer information or promising reunion with the recruits in exchange for compensation. Furthermore, families of the recruits who die in battle are often denied the monetary compensation and foreign citizenship guaranteed by the recruiters.

33. Children are at particular risk from predatory recruitment practices. There are instances in which children are forcibly recruited for mercenary activities and, in some cases, coerced by their parents, who facilitate their recruitment, motivated by financial gain. It is also reported that children are sold for such purposes.⁴⁷ The Working Group received information that new recruitment practices were emerging relating to the recruitment of children and young people from marginalized areas, whereby a recruitment subculture was being created by means of specific targeting with information and advertising campaigns in places in which children and young people gather, including sports clubs and gyms. There are reports that recruited children are subjected to a range of abuses affecting their human rights, including their rights to life, not to be subjected to torture or sexual abuse, to be protected from economic exploitation and from performing hazardous work and to have access to health care and education. Furthermore, in cases in which such children return home, they may face obstacles to reintegrating socially and economically into their local communities and their risk of re-recruitment can be increased if they are not provided with alternative job opportunities. The recruitment of children into mercenary-related activities and the failure to provide them with adequate rehabilitation and reintegration services may have a negative impact on the economic and social development of the community and on society at large. The recruitment of children has a long-lasting and complex impact on them, their families and their communities. The Working Group has received information about the recruitment of children into mercenary-related activities and about human rights violations in that connection, particularly concerning boys under the age of 18 years living in extremely vulnerable socioeconomic situations.⁴⁸ There are also reports that mercenaries are involved in unlawful deportation and in the unlawful transfer of children from their home countries.

C. Predatory recruitment of private military and security contractors

34. The recruitment of contractors by private military and security companies can also be considered, in some cases, as predatory recruitment. The globalization of recruitment for private military work has allowed the operation and rapid expansion of private military and security companies worldwide and has also created opportunities for the exploitation of vulnerable groups.⁴⁹ The central determinants in the globalized recruitment for private military work are often characteristics of nationality, gender and race, which are reflected in labour hierarchies and divisions among labour practices. The Working Group examined some aspects of this in its 2019 report on the gendered human rights impacts of private military and security companies.⁵⁰ The private military and security market often reflects social

⁴⁶ Syria Justice and Accountability Centre, *Mercenarism in Syria: Predatory Recruitment and the Enrichment of Criminal Militias* (Washington, D.C., 2021).

⁴⁷ See [A/HRC/39/49](#).

⁴⁸ See communications TUR 7/2020 and LBY 1/2020.

⁴⁹ Maya Eichler, "Citizenship and the contracting out of military work: from national conscription to globalized recruitment", *Citizenship Studies*, vol. 18, No. 6–7 (2014).

⁵⁰ [A/74/244](#).

hierarchies, in which race, class and colonial histories determine the value of labour.⁵¹ This phenomenon has resulted in the recruitment by private military and security companies of individuals belonging to marginalized populations, particularly from the global South. In this context, economic inequalities are the predominant factor pushing such individuals to become involved in mercenary-related activities and fall prey to predatory recruitment. In some cases, they are recruited by deception and misled in relation to the compensation that they will receive, the type of work that they will do and their working conditions. Recruits are exposed to harsh working conditions, with excessive working hours, are often denied compensation for death, disability or injury, are often paid only partially or not at all, are ill-treated and isolated by their recruiters, are often not provided with medical treatment in case of injury, adequate access to health care or options for personal leave and their identity documents are confiscated as a tactic to restrict their freedom of movement.⁵² Many of the recruits accumulate debts, live in isolation once they are deployed and end up in irregular migratory situations. There are cases in which the exploitation to which recruits are subjected could amount to debt bondage, forced labour or trafficking in persons for the purpose of forced labour.

35. The rise of proxy wars has increased the reliance on private military and security companies to provide military and combat services in a number of countries.⁵³ The recruitment of individuals from the global South is often motivated by the extensive military experience that companies are able to find among such recruits, often due to the fact that they have been involved in conflict in their own countries and have been well trained through combat to perform mercenary and mercenary-related activities. In some cases, the exclusion and marginalization that such individuals suffer in their home countries and the lack of labour opportunities have been determining factors for their involvement in conflict. Consequently, their recruitment by private military and security companies to participate in conflict abroad perpetuates that cycle. Such individuals can be considered as falling into a new form of “professional statelessness” that is fostered by the current existing conflicts and proxy wars, which rely heavily on their experience. This can be explained by the fact that such mercenaries may not ultimately return or intend to return to their home country for some of the following reasons: they can continue to be involved in mercenary-related activities in different conflicts; they may prefer to remain in a military environment due to the trauma of long exposure to war, and particularly when mercenary employment is more profitable than any alternative employment in their home country; and they may be unwelcome in their home country due to the perception that their training in military operations could increase the risk of domestic social unrest or fuel internal volatility. Furthermore, the return of mercenaries to their communities can contribute to broader violence, instability and the undermining of peace efforts and transitional justice. The combination of factors, such as economic and social inequalities, the prevalence of conflict and the lack of opportunities, creates an environment in which affected individuals are often at risk of exploitation and may fall prey to predatory recruitment. The involvement of some individuals in such activities and their participation in armed conflicts represent the so-called “revolving door” phenomenon, whereby individuals recruited in this manner come from similar backgrounds and are prone to continuing their involvement in mercenary and mercenary-related activities. Therefore, addressing the vulnerabilities affecting the individuals who often fall prey to predatory recruitment is key to adequately tackling the practice.

⁵¹ Amanda Chisholm, “Marketing the Gurkha security package: colonial histories and neoliberal economies of private security”, *Security Dialogue*, vol. 45, No. 4 (August 2014).

⁵² See [A/HRC/51/25](#).

⁵³ Tara Dominic, “A new statelessness? The Truman Doctrine, the modern Latin-American mercenary, and the economic entrenchment of the third world”, *International Journal of Politics, Culture, and Society*, vol. 31, No. 18 (March 2018).

VII. Comprehensive approach to the prevention of the recruitment of mercenaries and related actors, including predatory recruitment, and the protection of victims

36. The recruitment of mercenaries and mercenary-related actors is considered to be an integral element of mercenarism. A focus on the recruitment element provides an understanding of the multiple factors surrounding the phenomenon of mercenarism, including the different drivers of recruitment and the multiple actors involved in it, the contexts surrounding potential recruits and the root causes associated with the involvement of certain groups of individuals in mercenarism. Most importantly, a focus on recruitment can constitute the basis for a human-rights based approach to the prevention of mercenarism. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries imposes upon States the obligation to criminalize the recruitment of mercenaries and impose appropriate penalties that reflect its serious nature. The adoption at the national level of legislation criminalizing mercenarism has been considered to be among the first steps needed to tackle the phenomenon, as has the adoption of legislation prohibiting the accessory activities of mercenarism, including recruitment. At the national level, various approaches to recruitment have been adopted, including the following: the criminalization of recruitment within the context of the general criminalization of mercenarism; the stand-alone criminalization of recruitment for foreign military service; the criminalization of the act of mercenarism, without necessarily criminalizing related activities; and counter-terrorism provisions addressing recruitment.⁵⁴ Although these different approaches are aimed at tackling the recruitment of mercenaries, they are insufficient. A holistic approach focused on the criminalization of mercenarism and the recruitment, use, financing and training of mercenaries, as stipulated in the Convention, is key to tackling the phenomenon of mercenarism. States should also ensure that the legislation in place makes possible the prosecution of those who recruit mercenaries. Such legislation needs to be actively enforced and the necessary resources must be allocated to ensure the full implementation of the law at all levels of Government. Furthermore, cooperation among States in both the prevention and prosecution of such offences, including through the exchange of information, is key.

37. Under the Convention, States are also obligated to refrain from recruiting mercenaries. The recruitment of mercenaries and mercenary-related actors by States is still prevalent, particularly in the context of so-called proxy wars, and the presence of such actors in volatile contexts aggravates situations of conflict. Therefore, refraining from recruiting mercenary and mercenary-related actors to participate in such contexts would contribute to more peaceful societies. Furthermore, in the context of the recruitment of private military and security companies by States and the deployment of private military and security contractors, States should take the measures necessary to ensure that such contractors are not involved in mercenary or mercenary-related activities and that the overall level of State-based control over the use of force is maintained and well regulated.

38. The presence of mercenary and mercenary-related actors in armed conflicts creates a risk for the occurrence of human rights violations, including indiscriminate killings, sexual and gender-based violence, arbitrary detention and mass killings. Furthermore, in the context of predatory recruitment, individuals who fall prey to the practice are often victims of various forms of exploitation, including trafficking in persons, forced labour and debt bondage. States have the obligation under the due diligence standard to exercise a measure of care in

⁵⁴ Examples of national legislation that criminalizes the recruitment of mercenaries are the Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act 27 of 2006 of South Africa and article 436-2 of the Penal Code of France (1992, amended in 2003) (see <https://ihl-databases.icrc.org/en/customary-ihl/v2/rule108>). In a global study conducted by the Working Group on the use of mercenaries on national laws and regulations relating to private military and security companies, three countries (Kazakhstan, Kyrgyzstan and Tajikistan) were identified as having criminalized as separate offences the involvement in mercenary activities entailing the abuse of official powers and the recruitment of young people, with each type of offence carrying a sentence of imprisonment of 7 to 15 years in all three countries (see [A/HRC/33/43](#)). Other countries whose criminal codes prohibit mercenary recruitment include Denmark (art. 128), Norway (sect. 128) and Sweden (chap. 19, sect. 12).

preventing and responding to the acts of private individuals or entities that interfere with the rights of individuals. In this regard, States should take reasonable steps to prevent human rights violations in contexts in which mercenary and mercenary-related actors operate and take the necessary measures to investigate those violations, identify those responsible, impose appropriate punishment and provide effective remedies to the victims. Ensuring access to justice and remedy for victims is contingent upon the effective and equitable delivery of public services, including criminal and civil justice, legal aid and immediate and long-term assistance.⁵⁵ Such steps need to be taken at the national level to ensure that such services are provided in a fair, effective and non-discriminatory manner and are easily accessible to vulnerable groups. The Working Group concluded in its 2022 report to the Human Rights Council on access to justice, accountability and remedies for victims of mercenaries, mercenary-related actors and private military and security companies⁵⁶ that, while such responses as financial compensation or the punishment of perpetrators can be important and integral elements of justice, an intersectional, victim-centred approach demands more holistic measures that also address regulatory gaps to prevent future violations and to create remedies that truly meet the needs of victims.

39. The phenomenon of mercenarism and the recruitment practices linked to it have multiple root causes that need to be addressed. A comprehensive human rights-based approach to tackle this scourge should consider the drivers of the involvement of individuals in mercenary and mercenary-related activities and the root causes of harmful practices that have flourished around the phenomenon of mercenarism, including predatory recruitment. Extreme poverty and inequalities that result in the limited realization of social and economic rights, including access to health, education and social protection, and the wide-ranging and multifaceted impacts of conflict and other crises that affect societies, have an impact on the most marginalized. As set out in *The Sustainable Development Goals Report 2022*, such factors push them further behind and put them at risk of human rights violations, including those perpetrated by mercenaries and mercenary-related actors, and increase their vulnerability to various forms of exploitation. Consequently, an approach based on the prevention of human rights violations in this context would necessarily involve tackling the root causes of environments in which violations of human rights and of international human rights law occur and that contribute to the prevalence of multiple phenomena, such as mercenarism, and the prevalence of exploitative practices in various contexts. While there are real and serious concerns that the Sustainable Development Goals are in deep trouble, nevertheless, the global commitments captured in the 2030 Agenda for Sustainable Development represent an opportunity for States to advance the realization of economic and social rights and, therefore, to tackle those root causes, guided by human rights standards.⁵⁷ Several Goals are considered to be of key importance for tackling the root causes of mercenarism, its related practices and the phenomenon of predatory recruitment: Goal 2, on ending hunger, achieving food security and improved nutrition and promoting sustainable agriculture; Goal 3, on ensuring healthy lives and promoting well-being for all at all ages; Goal 4, on ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all; Goal 8, on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all; Goal 10, on reducing inequality within and among countries; and Goal 16, on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. States should put human rights front and center in working to achieve the Goals and address gaps in global governance relating to mercenaries and private military and security companies in preparation for the Summit of the Future, to be held in 2024.

40. The operationalization of these global commitments at the national level and the related human rights obligations impose upon States the obligation to respect, protect and fulfil social and economic rights, including by ensuring the availability, accessibility,

⁵⁵ See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law and basic principles on the right to an effective remedy for victims of trafficking in persons.

⁵⁶ [A/HRC/51/25](#).

⁵⁷ See [A/78/80-E/2023/64](#).

affordability and quality of education and health care and the enjoyment of just and favourable conditions of work and preventing such exploitative practices as forced labour and debt bondage. In addition, States should ensure that the principles of equality and non-discrimination are at the centre of any efforts. Measures aimed at the realization of those rights are key to breaking the cycle of poverty and inequality that is at the core of the root causes of mercenarism and predatory recruitment and that has a particularly severe impact on individuals belonging to society's most vulnerable groups. The Human Rights 75 initiative, celebrating the seventy-fifth anniversary of the Universal Declaration of Human Rights, also creates an opportunity for States to reinvigorate their commitment to advancing freedom, equality and justice for all and addressing the root causes of mercenarism and predatory recruitment.⁵⁸

VIII. Conclusion and recommendations

A. Conclusion

41. **In the current complex international peace and security environment, the recruitment of mercenaries and mercenary-related actors is prevalent and is conducted by a wide range of entities, including States and non-State actors. The presence of such actors poses a fundamental risk to human rights and international humanitarian law in addition to constituting a destabilizing factor in volatile contexts and undermining peace efforts. An understanding of the ways in which the recruitment of mercenaries and mercenary-related actors takes place; the actors involved in the recruitment; the different contexts in which it occurs; and the profile of the individuals involved in mercenary and mercenary-related activities is key to tackling the phenomenon of mercenarism. Furthermore, the predatory recruitment of mercenaries and mercenary-related actors is a particularly problematic phenomenon that takes advantage of the socioeconomic status and other vulnerabilities of individuals and may involve various forms of exploitation, including trafficking in persons and debt bondage. Existing inequalities affecting countries at large, which are manifested in extreme poverty, discrimination and a lack of work opportunities and access to education and health care, are among the root causes of this phenomenon. A focus on the recruitment of mercenaries and mercenary-related actors recognizes the importance of a comprehensive approach to combating mercenarism and the activities associated with it, in line with the framework established in the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The adoption of an approach that addresses the root causes and drivers of recruitment, however, is fundamental to tackling the scourge of mercenarism.**

B. Recommendations

42. **The Working Group recommends that States:**

(a) **Address governance gaps around mercenarism by adopting legislation criminalizing mercenarism and the recruitment, training, financing and use of mercenaries, in line with the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;**

(b) **Ensure that the legislation criminalizing the recruitment of mercenaries encompasses all the elements of recruitment, adopt the measures necessary to ensure the enforcement of such legislation and ensure that the legislation adopted penalizes the accomplices of recruiters, considering the manner in which recruitment takes place and the actors involved;**

⁵⁸ See <https://www.ohchr.org/en/human-rights-75>.

- (c) Refrain from recruiting mercenaries and mercenary-related actors and take the measures necessary to ensure that individuals are not recruited in their territory;
- (d) Establish the mechanisms necessary to ensure adequate oversight aimed at preventing the recruitment of mercenaries and mercenary-related actors;
- (e) Adopt legislation regulating the activities of private military and security companies, particularly in the areas of licensing, registration, the vetting of personnel, the use of force, the scope of permissible and prohibited activities and accountability and remedies for violations, considering the transnational nature and activities of some private military and security companies;
- (f) Ensure that private military and security companies and their personnel are subject to civil liability and penal accountability for violations of human rights and that such civil and criminal accountability is judicially enforceable and not subject to State or other immunities;
- (g) Renew the mandate of the open-ended intergovernmental working group to elaborate the content of an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies at the fifty-fourth session of the Human Rights Council and participate constructively in the open-ended intergovernmental working group in the future;
- (h) Adopt and enforce a legally binding international instrument on the activities of private military and security companies to ensure consistent regulation at the national level, including in relation to the recruitment of personnel, vetting procedures and standards on the adequate prevention of human rights violations, the protection of victims, accountability and effective remedies;
- (i) Investigate, prosecute and sanction human rights violations perpetrated by mercenaries, mercenary-related actors and private military and security companies, including in relation to crimes committed abroad, and ensure access to justice and remedy for victims;
- (j) Investigate, prosecute and sanction human rights violations perpetrated in the context of predatory recruitment, such as trafficking in persons for purposes of forced labour in the context of mercenary and mercenary-related activities, and ensure effective access to justice and remedy;
- (k) Consider mutual cooperation to facilitate investigations and the prosecution of those involved in the recruitment of mercenaries and mercenary-related actors, including through legal assistance and extradition agreements;
- (l) Take the measures necessary to address inequality and discrimination and to tackle the root causes of recruitment, including predatory recruitment;
- (m) Ensure the necessary protection of individuals in vulnerable situations who could fall prey to predatory recruitment, including men, often young, from low socioeconomic and conflict-affected backgrounds, children, migrants and internally displaced persons;
- (n) Take specific measures to protect against predatory recruitment for the purposes of exploitation;
- (o) Take the measures necessary to ensure the adequate identification of individuals who have been subjected to exploitation in the context of recruitment, including predatory recruitment, for mercenary-related activities and ensure that they are provided with the necessary protections;
- (p) Provide training to and sensitize law enforcement officials at the national and local levels on the identification of individuals that, in the context of predatory recruitment, have been subjected to exploitation, including debt bondage, forced labour and human trafficking;

(q) **Ensure, in the context of predatory recruitment, due consideration to the root causes of mercenarism and the vulnerable situations in which recruited individuals may find themselves and that recruited individuals are treated primarily as victims and offered specific protections, in line with international law;**

(r) **Ensure the collection of disaggregated data on the individuals who are victims of predatory recruitment, including those belonging to such vulnerable groups as refugees, internally displaced persons, migrants, minorities and children;**

(s) **Take the measures necessary to ensure that individuals who have been victims of predatory recruitment are provided with the necessary rehabilitation and support their reintegration into society;**

(t) **Ensure that all remedial mechanisms are responsive to the diverse experiences and expectations of victims, especially those of individuals belonging to vulnerable groups;**

(u) **Take the measures necessary to address the root causes of child recruitment into armed conflict, including preventive measures, and strengthen the protection of children and young people in situations in which mercenaries and mercenary-related actors operate;**

(v) **Ensure that the responses to the recruitment and use of children in armed conflict are focused on the rehabilitation and reintegration of children, considering that their reintegration is important to ensuring long-lasting peace, security and sustainable development in post-conflict societies and that the failure to reintegrate such children socially and economically into society may increase the risk of their re-recruitment, which would also have an impact on economic development in the community and in society at large;**

(w) **Ensure the participation of different stakeholders, particularly individuals belonging to vulnerable groups, in the process aimed at implementing the 2030 Agenda;**

(x) **Ensure that the Sustainable Development Goals are achieved and that the implementation of their targets is consistent with international human rights law, particularly the substantive content of economic and social rights, in preparation for the Summit of the Future.**
