

# Private Military and Security Companies Must Be Quickly Regulated, Nigeria's Dr. Chris Kwaja Tells UN Human Rights Council

*It was the 42<sup>nd</sup> Session of the UN Human Rights Council in Geneva on September 9<sup>th</sup>, 2019 and Nigeria's Dr. Chris Kwaja, Chairperson-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the right of peoples to self-determination was on the stage. Below are excerpts from the statement at the interactive session, published as such just to let Dr Kwaja say it in his own words on a key dimension of the paradox of over-abundance peculiar to Africa and Latin America: the violent turn at the sites of exploitation of natural resources towards securing vested interests. Read on! – Intervention*

## **Mr. President, Excellencies, Ladies and Gentleman,**

I am honoured to address the Human Rights Council as the Chairperson- Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the right of peoples to self-determination.

Over the past year, the Working Group has actively pursued the implementation of its mandate through meetings and consultations with a broad range of stakeholders. I thank all those who met with us and contributed to our work.

Today, I am pleased to present our thematic report, and the findings of the Working Group's visits to Austria and Chad. We will report to this Council on our visit to Switzerland, undertaken last May, next year. I would like to reiterate our appreciation to the Governments concerned for the excellent co-operation given to us in the scope of these visits.



UN HUMAN RIGHTS COUNCIL - GENEVA

## **Mr. President,**

Our report this year focuses on the human rights impact of private military and security companies operating in the extractive industry, a sector that relies heavily on private security services.

Extractive companies manage security amid considerable challenges, and do so by relying upon different types of security providers, notably: security professionals directly employed by an extractive company; contracted or sub-contracted private military and security companies; and various State security forces operating in and around the extractive site. In some contexts, paramilitary or criminal armed groups may also be active in the area.

Allegations of human rights abuses by private security providers engaged by extractive companies include: the repression of individuals opposing extractive projects, through the use of force, surveillance, death or other threats, intimidation, and campaigns to discredit those opponents; as well as extra-judicial killings, enforced disappearances, torture and ill-treatment, and sexual- and gender-based violence. Indigenous people, environmental and other human rights defenders, and artisanal miners are at particular risk.

Besides their direct role in perpetrating such abuses, by enabling extractive companies to operate, private military and security companies may contribute to violations of the right of peoples to self-determination, including with regard to indigenous people. They may also be complicit in violations by State security forces; for example by assisting State security forces to forcibly remove people or communities from their lands in the vicinity of an extractive operation.

## **Excellencies,**

Complex and opaque security arrangements within extractive sites often make it difficult to identify or distinguish one security actor from another, and to ascertain respective roles, responsibilities and reporting lines. This is further complicated when State security agents work as private security guards in parallel to their public functions. Overall, this current mode of functioning hinders the pursuit of accountability and effective remedies for victims of human rights abuses by private security providers.

Initiatives, such as the Voluntary Principles on Security and Human Rights, provide guidance on public and private security provision, but they are non-binding and have had limited, tangible impact on the lives of communities affected by extractive operations.

In this context, the Working Group calls on States to strengthen regulation and oversight of private military and security companies. States should adopt relevant national legislation and should integrate human rights guarantees in relation to security arrangements into their concession agreements, memoranda of understanding and other similar documents with extractive companies.

Agreements with extractive companies, including security elements, should clearly demarcate the respective roles and spheres of action for the different security providers, and should be made public. States must also ensure that private military and security company personnel who have committed human rights abuses are brought to justice, and that victims are afforded effective remedies.

The extractive sector itself should insist that private security providers deliver services in a human rights compliant manner. Increased transparency regarding security arrangements and the integration of human rights standards into security-related contracts and policies would be a step in the right direction. Private military and security companies need to do more to ensure that their employees and sub-contractors respect human rights and should publicly report on human rights abuses and steps taken to address them.



Chadian president, Idris Derby

## Country Visit to Chad:

**Mr. President,** Let me now turn to the country visits presented to this Council.

A delegation of the Working Group visited Chad from 16 to 23 April 2018.

The Working Group found that Chad's difficult history of armed conflicts and its proximity to conflicts in neighbouring countries, coupled with porous borders, poverty, a severe economic situation, weak State institutions and trans-border criminal activities provide fertile ground for mercenaries and foreign fighters to thrive.

These challenges led the Government of Chad to criminalize mercenarism in the Penal Code. The Government should build on this by ratifying the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and by strengthening efforts under existing international and regional frameworks to assist with investigation, exchange of information, mutual legal assistance and border management.

Furthermore, measures adopted by the Government to address existing security threats should include a human rights approach and a stronger focus on understanding and addressing the root causes that drive individuals to become mercenaries and foreign fighters. In this vein, support from the international community is needed to assist in tackling the country's humanitarian crisis.

## Country Visit to Austria:

## Ladies and Gentlemen,

From 21 to 29 June 2018, a delegation of the Working Group visited Austria. The visit focused on two main issues: foreign fighters, as a mercenary-related activity, and private military and security companies.

The Government has engaged in multiple strategies to address high levels of foreign fighters traveling to major conflict zones. Positively, its efforts, jointly with civil society, religious communities and through public-private partnerships, on de-radicalisation and countering and preventing violent extremism reportedly helped to stem the flow of fighters travelling abroad.



Nevertheless, the Working Group was concerned about the emphasis on law enforcement that favours symptoms over causes and may lead to further stigmatisation of migrants, foreigners, or a particular religious community; and calls for security measures to be balanced with assessing and addressing root causes.

Regarding private military and security companies, we were pleased to note that core government functions such as military services and operation of prisons are not privately outsourced; and that in one detention centre for migrants, visited by the Working Group, the activities of the contracted private security company were limited to administrative tasks and service provision to detainees.

Nonetheless, the use of private security providers in the migration context highlights the need for the Government to adopt specific regulation on private security services to ensure that they are provided in line with international human rights standards.

## Mr. President,

Looking forward, I am pleased to inform you that next month a delegation of the Working Group is scheduled to visit the institutions of the African Union in Addis Ababa, thanks to the excellent cooperation with the African Union. This will be an important visit given that Africa is one of the regions most affected by mercenaries and has been at the forefront of efforts to combat mercenary-related activities.

Through this and other initiatives, the Working Group is keen to bring to the fore regional dynamics so that our conclusions and recommendations can be anchored in the varied realities across and within regions. As such, over the past year, we have engaged in events hosted by other regional fora such as the Organisation for Security and Cooperation in Europe and the Caribbean Community.

Over the coming years, we hope to extend our regional outreach and engagement and to thereby identify ways to overcome the challenges faced by this mandate to obtain credible data regarding mercenaries and mercenary-related activities, including specific cases of human rights violations and abuses, and to assess regional trends and emerging issues. The 30th anniversary of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, this December, provides an opportunity in this regard. We hope that we can count on this Council to support our efforts in this direction.

We will also continue to focus on the regulation and activities of private military and security companies and their human rights impact.

I thank you for your attention and I look forward to engaging in a constructive dialogue.

Thank you.