

# PMSC AND INTERNATIONAL HUMANITARIAN LAW: THE NEED FOR IMPLEMENTATION

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# Humanitarian issues with PMSC

- if these companies operate without clear rules on the use of force;
- if they lack adequate training on international humanitarian law and other applicable law;
- if they conduct activities which should be within the remit of governments exclusively; and
- if the States involved do not ensure effective accountability for possible violations of such companies of either international humanitarian law or domestic law



# Common article 1 Geneva Conventions

- states parties ‘undertake to respect and to ensure respect for the present Convention [and IHL] in all circumstances’
- Means: states need to take responsibility for the PMSC they register and hire to ensure that they comply with IHL



# Some applicable principles of IHL

- Dissemination of the Geneva Conventions and IHL
- Enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the GCs
- Take measures necessary for the suppression of all acts contrary to the provisions of the GCs other than the grave breaches



# Montreux Document

- clarify and underline the fact that under existing international law, States have obligations with respect to the operations of PMSCs.
- a set of good practices on how to regulate the activities of PMSCs in national law and practice
- ‘home’, ‘contracting’ or ‘territorial’ State



# Overview of obligations

- States may not contract private contractors for tasks that international humanitarian law explicitly assigns to States;
- States have to ensure respect for international humanitarian law by PMSCs and give effect to human rights law; and
- States have to investigate and, if required or appropriate, prosecute, extradite or surrender persons suspected of having committed international crimes, in particular war crimes.

