



## PRIVATIZATION WITHOUT REGULATION: THE HUMAN RIGHTS RISKS OF PRIVATE MILITARY AND SECURITY COMPANIES (PMSCS) IN MEXICO\*

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*ABSTRACT. The use of private military or security companies is a growing phenomenon in Latin America. In recent years, increased violence and insecurity in Mexico has made the nation an attractive market for PMSCs. The privatization of security has changed how security is provided in ways that can be either positive or negative depending on how the industry is regulated. This note examines how the privatization of security has functioned in Mexico by examining the nation's two main private security categories —domestic and multinational PMSCs— who work for either private clients or the United States (US) and/or Mexican governments under the Merida Initiative. After discussing how Mexican law attempts to regulate the industry, this note analyzes whether or not existing regulation is sufficient to permit these organizations to act as a “force multiplier” to increase the overall sense of security. In light of evidence suggesting that domestic and multinational PMSCs do not respect Mexican law, it appears that most of the private security market in Mexico fails to be a “force multiplier”. Moreover the presence of a non-state actor authorized to use force and not controlled adequately add greater complexity to an already complicated human rights situation. This note concludes by discussing how Mexico's failure to implement existing regulations on PMSCs amounts to a failure to respect its obligations under international law.*

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KEY WORDS: *International law, human rights, private security, regulation, Mexico, United States.*

RESUMEN. *El uso de compañías militares y/o de seguridad privadas (CMSP) es un fenómeno creciente en América Latina. El aumento de la violencia y la inseguridad en México en los últimos años ha hecho que sea un mercado atractivo para las CMSP. La privatización de la seguridad cambia la forma de proveer seguridad, que puede ser positiva o negativa dependiendo de cómo los proveedores de seguridad están regulados. Esta nota examina cómo la privatización de la seguridad está funcionando en México, analizando los dos principales actores en el mercado de la seguridad privada en México —CMSP nacionales e internacionales— que trabajan para clientes privados y, en el caso de las CMSP internacionales, para los Estados Unidos o México bajo la Iniciativa Mérida. Después de discutir cómo la ley mexicana intenta regular estas CMSP, esta nota evalúa si la regulación existente es suficiente para permitir que las CMSP en México actúen como un multiplicador de fuerza que aumenta la seguridad. A la luz de la evidencia que sugiere que las CMSP nacionales e internacionales no respetan las leyes mexicanas, parece que la mayor parte del mercado de la seguridad privada en México sigue siendo no regulada ni controlada, lo que no sólo no le permite ser un “multiplicador de fuerzas”. La presencia de un actor no estatal autorizado a usar la fuerza y no controlado de forma adecuada añade una mayor complejidad a la ya complicada situación de los derechos humanos. Esta nota concluye con una discusión sobre el fracaso de México para implementar la legislación existente sobre CMSP, incumpliendo sus obligaciones estatales en virtud del derecho internacional.*

PALABRAS CLAVE: *Derecho internacional, derechos humanos, seguridad privada, regulación, México, Estados Unidos.*

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#### I. INTRODUCTION

The use of private military or security companies (PMSCs) is a growing phenomenon in Latin America. Unlike in Iraq and Afghanistan, however, the rules are different in Latin America. In Iraq, PMSCs have been involved in massive violations of human rights as in Abu Ghraib, where contractors have

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