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**THE WAGNER GROUP IN AFRICA: LEGAL STATUS AND ACCOUNTABILITY  
DURING NON-INTERNATIONAL ARMED CONFLICTS**

by

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Submitted in partial fulfilment of the requirements for the degree

Master of Laws in International Law (International Humanitarian Law and Human Rights in  
Military Operations)

in the Faculty of Law, University of Pretoria

Prepared under the supervision of

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October 2023

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## ACKNOWLEDGMENTS

I would like to express my sincere gratitude to my supervisor, Professor Stuart Maslen, for his unwavering support and guidance throughout my academic journey. His meticulous attention to detail, constructive criticism, and guidance in my writing were invaluable in completing this mini-dissertation.

My thanks goes to Marthinus and Margaretha for their staunch support and encouragement. Their guidance has empowered me to pursue my passion for international humanitarian law, and I will forever be grateful for the opportunities they have afforded me. Thank you to Emma for her wise words and insightful advice.

## ABSTRACT

This mini-dissertation examines the growing concern surrounding the involvement of private actors in conflict situations, where their lack of accountability, owing to the absence of responsible State actors, poses a potential threat to international humanitarian law and human rights law. The research focuses on the Russian company, PMC Wagner Group, analysing its legal standing in domestic and international contexts under international humanitarian law, especially within non-international armed conflicts. Considering the absence of a comprehensive international regulatory framework or accountability mechanisms for private military and security companies, this research explores the attribution of responsibility for violations of international humanitarian law and human rights law committed by the Wagner Group in Africa. The specific focus lies on the Group's involvement in the non-international armed conflicts in the Central African Republic and Mali.

The research aims to contribute to a practical legal framework regulating private military and security companies' activities, ensuring accountability for their violations of international humanitarian law and human rights law. This is particularly crucial in non-international armed conflicts, where private actors significantly impact civilian protection and the overall conduct of hostilities.

## KEYWORDS

Wagner Group, non-international armed conflict, international humanitarian law, human rights law, Central African Republic, Mali, private military and security company, attribution of responsibility, civilian protection

## ABBREVIATIONS

3R	Return, Reclamation and Rehabilitation
ACLED	Armed Conflict Location & Event Data Project
AQIM	Al-Qaeda in the Islamic Maghreb
ASR	Draft Articles on State Responsibility for Internationally Wrongful Acts
CAR	The Central African Republic
CPC	Coalition Of Patriots For Change
DPH	Direct Participant In Hostilities
FACA	Forces Armées Centrafricaines (Central African Armed Forces)
FAMa	Forces Armées Maliennes (Armed Forces of Mali)
FRPC	Popular Front for the Renaissance in the Central African Republic
HRC	Human Rights Committee
HRL	Human Rights Law
HRW	Human Rights Watch
IAC	International Armed Conflict
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICoC	International Code Of Conduct For Private Security Service Providers
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally Displaced Persons
IGWG	Intergovernmental Working Group
IHL	International Humanitarian Law
ILC	International Law Commission
ISGS	Islamic State in the Great Sahara
ISIS	Islamic State of Iraq and Syria
JNIM	Jama'at Nusrat al-Islam wal-Muslimin
MINUSCA	United Nations Multidimensional Integrated Stabilisation Mission in the Central African Republic
MINUSMA	United Nations Multidimensional Integrated Stabilisation Mission in Mali
MLCJ	Central African Liberators for Justice Movement Central African Patriotic Movement

MPC	Central African Patriotic Movement
NIAC	Non-International Armed Conflict
OHCHR	Office of the UN High Commissioner for Human Rights
PMC	Private Military Company
PMF	Privatised Military Firm
PMSC	Private Military And Security Company
POW	Prisoner of War
Protocol I	First Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts
Protocol II	Second Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts
PSC	Private Security Company
RDF	Rwandan Defence Force
SCC	Special Criminal Court
UPC	Union for Peace in the Central African Republic

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## CHAPTER ONE

### 1. Introduction and Background

#### 1.1. Introduction

Over the past two decades, there has been a significant increase in the involvement of private military and security companies in armed conflicts worldwide. This growth has been observed in both international and non-international armed conflicts, highlighting the expanding role of private security and military companies in these contexts. The Wagner Group, a Russian private military company, has gained significant attention, raising great concern regarding the privatisation of armed conflicts and the use of private actors, following the escalation of its recent operations in Ukraine. The Wagner Group's involvement in the Russia-Ukraine conflict, however, is not the first time the group has been involved in armed conflicts. The Wagner Group has been and still is involved in several major armed conflicts, including the Central African Republic and Mali.

#### 1.2. Background to the Research

Despite non-international armed conflicts (NIACs) accounting for nearly eighty percent of armed conflicts worldwide,<sup>1</sup> research on the role of private military and security companies (PMSCs) in NIACs remains underdeveloped compared to that governing international armed conflicts (IACs). The rationale for this mini-dissertation is based on the identified gap in existing literature on the legal status of PMSCs, particularly in the context of NIACs, and the need for a workable legal framework to regulate their activities and ensure accountability for violations of international humanitarian law (IHL) and human rights law (HRL). The focus of this dissertation is the legal status of the Wagner Group and their accountability for violations of IHL and HRL in the context of NIACs in the Central African Republic (CAR) and Mali.

A NIAC exists when a situation of violence has reached a level of armed violence, exceeding that of internal disturbances and tensions<sup>2</sup> between the armed forces of a State and one or more

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<sup>1</sup> 'Today's Armed Conflict' (*Geneva Academy*, no date) <<https://geneva-academy.ch/galleries/today-s-armed-conflicts>> accessed 7 July 2023.

<sup>2</sup> *Prosecutor v Duško Tadić AKA "Dule"*, Case No IT-94-1-T, Opinion and Judgment (Trial Chamber I), 7 May 1997; In the *Tadić* the Trial Chamber I considered 'protracted armed violence' as a threshold that is 'used solely for the purpose, as a minimum, of distinguishing an armed conflict from banditry, unorganised and short-lived insurrections, or terrorist activities which are not subject to [IHL].'<sup>1</sup> International Criminal Tribunal for the Former

organised armed groups or between such groups within the confines of a State territory.<sup>3</sup> The armed confrontation must, therefore, reach a minimum level of intensity, and the parties to the armed conflict must show a minimum level of organisation in order to distinguish it from less serious forms of violence.<sup>4</sup> Furthermore, where a State is party to Protocol (II) additional to the four Geneva Conventions,<sup>5</sup> the armed conflict must be between the State armed forces of the territorial State and one or more organised armed groups which satisfy the material scope of Protocol II contained in Articles 1(1) and 1(2).<sup>6</sup>

The CAR, marked by six coups, has experienced decades of violence and instability since gaining independence in 1960. The conflict has its roots in political and economic instability, as well as ethnic and religious tensions. In December 2012, the Séléka,<sup>7</sup> a coalition of armed, primarily Muslim rebel groups, launched an offensive against the CAR government and overthrew President François Bozizé.<sup>8</sup> By March 2013, the Séléka had gained control of strategic towns, including the capital, Bangui, and most of the country's provinces.<sup>9</sup> The Séléka's actions triggered a response from the anti-Balaka, a self-defence militia of primarily Christians, which carried out reprisal attacks against Séléka members. This cycle of revenge killings and violence between the two groups exacerbated the humanitarian crisis.<sup>10</sup> Since the conflict reignited in 2013, thousands of individuals have lost their lives, and many others have been displaced as refugees or internally displaced persons (IDPs). Despite the presence of the United Nations (UN) peacekeeping force, MINUSCA, armed groups continue to operate openly and control significant portions of the CAR's territory.<sup>11</sup>

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Yugoslavia (ICTY), *Prosecutor v Tadic*, Case No IT-94-1-A, Judgment (Appeals Chamber) 15 July 1999 para 70.

<sup>3</sup> *Tadić* (n 2) para 562; *The Prosecutor v Jean-Pierre Bemba Gombo*, “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo” ICC-01/05-01/08-424 para 229 (15 June 2009).

<sup>4</sup> International Criminal Court, ‘Situation in Mali: Article 53(1) Report’ (16 January 2013) para 57.

<sup>5</sup> ‘Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 1125 UNTS 609, 8 June 1977’ (7 December 1978).

<sup>6</sup> *ibid* art. 1(1): Protocol II stipulates that the organised armed group must be under a responsible command structure and possess territorial control, to such extent that it enables them to conduct continuous military operations and effectively implement the provisions outlined in Protocol II. Art.1(2): excludes situations of internal disturbance and tension as these do not constitute situations of armed conflicts.

<sup>7</sup> The word Séléka means ‘alliance’ or ‘coalition’ in Sango, one of the official languages of CAR.

<sup>8</sup> Giulia Marcucci, ‘Central African Republic: Sectarian and Inter-Communal Violence Continues’ (The War Report 2018, January 2019) 2.

<sup>9</sup> *ibid*.

<sup>10</sup> *ibid* 3; ‘Non-International Armed Conflicts in the Central African Republic’ (*RULAC Geneva Academy*, n.d.) <<https://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-the-central-african-republic#collapse1accord>>.

<sup>11</sup> Marcucci (n 8) 4.

In late 2020, former President Bozizé formed the Coalition of Patriots for Change (CPC), a diverse coalition of ex-Séléka and anti-Balaka members and launched an attack on Bangui.<sup>12</sup> The Central African Armed Forces (FACA), supported by Russian and Rwandan allies, successfully repelled the rebels, who subsequently retreated to rural areas and neighbouring States, including Chad and Sudan.<sup>13</sup> The Wagner group has been operating in the CAR since 2018, following a bilateral agreement between CAR and Russia to provide weapons to CAR. Despite not engaging in hostilities until the end of 2020, the Wagner Group has been linked to various violations of IHL and HRL during this period.<sup>14</sup> The Wagner Group initially deployed together with the Rwandan Defence Force (RDF), and the two forces were reportedly cooperating.<sup>15</sup> However, the military collaboration was suspended in June 2021 by Rwanda over recurrent reports of attacks on civilians committed by Wagner personnel.<sup>16</sup>

Since December 2012, the frequency of armed attacks and confrontations, the high number of casualties, the displacement of people due to ongoing hostilities, and the use of sophisticated military equipment and advanced weaponry have collectively reached a significant level of intensity.<sup>17</sup> Numerous armed groups, varying in their level of organisation, control much of CAR. Eight of these groups<sup>18</sup> have been identified as meeting the organisation threshold required for the application of IHL in NIACs, thus operating as non-State parties to the conflict.<sup>19</sup> The ongoing fighting has resulted in multiple parallel and overlapping NIACs between the armed groups and the government.<sup>20</sup> Thus, all parties to the conflict are bound by

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<sup>12</sup> Enrica Picco, 'Ten Years After the Coup, Is the Central African Republic Facing Another Major Crisis?' (*International Crisis Group*, 22 March 2023) para 2 <<https://www.crisisgroup.org/africa/central-africa/central-african-republic/dix-ans-apres-le-coup-detat-la-republique>>.

<sup>13</sup> *ibid.*

<sup>14</sup> 'Public Report on Violations of Human Rights and International Humanitarian Law in the Central African Republic during the Electoral Period' (July 2020–June 2021) paras 41–42.

<sup>15</sup> 'NIAC in CAR' (n 10); Jessica Moody, 'How Rwanda Became Africa's Policeman' (*Foreign Policy*, 21 November 2022) <<https://foreignpolicy.com/2022/11/21/how-rwanda-became-africas-policeman/>>; 'Public Report on Violations of Human Rights and International Humanitarian Law in the Central African Republic during the Electoral Period' (n 14) paras 26, 39.

<sup>16</sup> 'NIAC in CAR' (n 10); Moody (n 15).

<sup>17</sup> 'NIAC in CAR' (n 10).

<sup>18</sup> These include: Anti-Balaka armed group; Return, Reclamation and Rehabilitation (3R); Séléka/ Ex-Séléka coalition group; Central African Liberators for Justice Movement (MLCJ); Popular Front for the Renaissance in the Central African Republic (FPRC); Central African Patriotic Movement (MPC); and Union for Peace in the Central African Republic (UPC).

<sup>19</sup> Marcucci (n 8) 5–6; 'NIAC in CAR' (n 10); 'Central African Republic: Abuses by Russia-Linked Forces' (3 May 2022) <<https://www.hrw.org/news/2022/05/03/central-african-republic-abuses-russia-linked-forces>>.

<sup>20</sup> 'NIAC in CAR' (n 10).

Common Article 3, customary IHL, and international HRL, which continues to apply during times of armed conflict.<sup>21</sup>

The conflict in Mali began in 2012, involving various armed groups, government forces, and international actors.<sup>22</sup> The conflict stems from long-standing grievances of the Tuareg people, and since 2006, Mali has experienced ongoing armed violence between the government and the Tuareg non-state armed groups. The situation escalated in 2012, when Tuareg groups launched offensives against the Malian government, leading to a military coup. Today, the Malian government is engaged in hostilities with various non-State armed groups, including Jama'at Nusrat al-Islam wal-Muslimin (JNIM) and the Islamic State in the Great Sahara (ISGS).<sup>23</sup> Between 2013 and 2022, the Malian government received ongoing military support from France. However, this support ended in August 2022 when France withdrew its armed forces from Mali. MINUSMA, a UN peacekeeping operation, has been actively supporting the Malian government since July 2013, in an effort to regain control over areas held by organised armed groups. MINUSMA however, is scheduled to withdraw from Mali by 31 December 2023. Mali's transitional government reached an agreement in September 2020 to allow 1000 Wagner personnel to provide 'training, close protection, and counterterrorism operations' to the Malian Armed Forces (*Forces Armées Maliennes*, FAMA).<sup>24</sup> In December 2021, the Wagner Group deployed to Mali with the support of Russian armed forces.<sup>25</sup> The exact scope and nature of Wagner's activities in Mali, remain unclear. However, it has been reported that the Group acts as 'Military Trainers' for FAMA as well as providing private security for political leaders.<sup>26</sup> One of the first military operations conducted by FAMA alongside the Wagner Group was against JNIM-affiliated Katiba Macina on 3 January 2022.<sup>27</sup>

JNIM is a Salafi-jihadist organisation operating in the Sahel region of sub-Saharan Africa. JNIM is a coalition of four groups: Ansar Dine, Katibat Macina, al-Mourabitoun, and Al-Qaeda

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<sup>21</sup> ICJ, 'Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion' (ICJ Reports, 8 July 1996) para 25.

<sup>22</sup> 'Non-International Armed Conflict in Mali' (*RULAC Geneva Academy*, n.d.) <<https://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-mali#collapse2accord>>.

<sup>23</sup> 'Mali: Several Non-International Armed Conflicts with Various Insurgent Groups' (Geneva Academy, 31 January 2019) <<https://www.geneva-academy.ch/news/detail/204-mali-several-non-international-armed-conflicts-with-various-insurgent-groups>>.

<sup>24</sup> John Irish and David Lewis, 'Deal Allowing Russian Mercenaries into Mali is Close - Sources' (13 September 2021) <<https://www.reuters.com/world/africa/exclusive-deal-allowing-russian-mercenaries-into-mali-is-close-sources-2021-09-13/>>.

<sup>25</sup> Jared Thompson and others, 'Tracking the Arrival of Russia's Wagner Group in Mali' (*CSIS*, 2 September 2022) <<https://www.csis.org/analysis/tracking-arrival-russias-wagner-group-mali>>.

<sup>26</sup> Christopher Faulkner, 'Undermining Democracy and Exploiting Clients: The Wagner Group's Nefarious Activities in Africa' (2022) 15 CTC Sentinel, 33.

<sup>27</sup> 'NIAC in Mali' (n 22).

in the Islamic Maghreb (AQIM). JNIM has expanded its operating territory across West Africa and has carried out violent attacks against civilians, local security forces, international militaries, and UN peacekeepers. ISGS, an affiliate of the Islamic State of Iraq and Syria (ISIS), operates in the Sahel region of sub-Saharan Africa. ISGS has also been responsible for attacks on civilians, local security forces, and UN peacekeepers in Mali and in neighbouring countries. JNIM and ISGS have been identified as meeting the threshold required for the application of IHL in NIACs and are therefore considered non-State parties to the conflict. All parties to the conflict are bound by Common Article 3, customary IHL, and international HRL, which continue to apply during times of armed conflict. Mali is also party to Protocol II, which is applicable to NIACs.<sup>28</sup> The ability of some non-State armed groups to exert and maintain control over parts of Mali to the extent that they can conduct sustained and concerted military operations suggests that they fulfil the necessary requirements for the applicability of Protocol II.<sup>29</sup>

### 1.3. Research Problem

The growing involvement of private actors in conflict situations poses a significant challenge to established legal frameworks. In the absence of defined international regulations and accountability mechanisms for PMSCs in NIACs, enforcing IHL and human rights standards proves difficult. This research addresses the pressing issue of holding the Wagner Group accountable for its alleged violations of IHL and HRL within the context of NIACs. By exploring the legal status of the Wagner Group and its activities in specific conflict situations, this study aims to identify the gaps in current accountability measures and contribute to the development of more robust regulatory frameworks. To achieve this objective, the research will analyse the following questions:

- i. How does the legal status of the Wagner Group differ across domestic and international legal frameworks, and what are the resulting consequences for their accountability regarding violations of IHL during NIACs and human rights standards?

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<sup>28</sup> 'Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts' (February 2008) 10; 'International Humanitarian Law Databases' (*IHL Databases*, no date) r. 139 <<https://ihl-databases.icrc.org/en/customary-ihl/v1>>.

<sup>29</sup> 'Mali: Several Non-International Armed Conflicts with Various Insurgent Groups' (n 23); 'NIAC in Mali' (n 22); 'Protocol II' (n 5) art. 1(1).

- ii. What alleged violations of IHL and HRL has been committed by the Wagner Group with regard to their engagement in the CAR and Mali?
- iii. Within the context of their operations in Mali and CAR, who can be held accountable for the conduct of the Wagner Group and its personnel, encompassing violations of IHL and HRL, as dictated by domestic and international legal frameworks?

#### 1.4. Scope and Delimitation

This research focuses specifically on the activities of the Wagner Group in the CAR and Mali within the context of NIACs. The study delves into the legal intricacies of these activities, limiting its scope to the aforementioned geographic regions and conflict situations. While the broader topic of PMSCs in armed conflicts is of significant importance, this study narrows its focus to provide an analysis of the Wagner Group's actions and the applicable legal frameworks in these specific contexts.

#### 1.5. Methodology

This study will employ a qualitative research methodology, utilising a case study approach to analyse the legal status of the Wagner Group and its accountability for violations of IHL in CAR and Mali. Through the examination of legal documents, reports, and scholarly articles, this research aims to provide a comprehensive understanding of the legal complexities surrounding the Wagner Group's involvement and attribution of responsibility in NIACs.

#### 1.6. Overview of subsequent chapters

This work is divided into four chapters. This chapter, Chapter One, introduced key concepts and the general background and focus of the research. Chapter Two examines the legal status of the Wagner Group in NIACs by analysing the definition of PMSCs and their application under both IHL and HRL. This analysis is conducted within the scope of both Russian domestic law and international law to provide a comprehensive understanding of the legal status of the Wagner Group. Chapter Three will investigate the Wagner Group's role in violations of IHL and HRL in the CAR and Mali. Chapter Four investigates the issue of accountability for alleged violations of IHL and HRL perpetrated by the Wagner Group and its personnel in Mali and CAR. Specifically, this chapter aims to identify to whom the conduct of the Wagner Group can be attributed, thereby determining those liable for any transgressions against IHL and IHRL.

committed by the Group. This investigation encompasses both national and international legal systems to offer a thorough assessment of accountability mechanisms pertaining to the Wagner Group's activities. Chapter Four will determine accountability for alleged violations of IHL and HRL committed by the Wagner Group. This chapter will discuss the circumstances under which Russia, the CAR, and Mali could bear State responsibility for the Wagner Group's violations, as well as whether individual fighters could be held accountable for the commission of war crimes under the relevant frameworks of domestic and international law. This dissertation will conclude by offering final thoughts and recommendations regarding the legal status of PMSCs and the attribution of responsibility for violations of IHL and HRL.

## CHAPTER TWO

### 2. Analysing the Legal Status of the Wagner Group: Examining Domestic and International Legal Frameworks in NIACs'

While the outsourcing of core combat functions to private actors has become more noticeable in recent years, it is not a new phenomenon.<sup>30</sup> For decades, States have delegated essential military operations to non-State entities, including PMSCs. This has resulted in a shift in the way many States approach traditional military functions that were once exclusively carried out by State military forces.<sup>31</sup> As the use of PMSCs continues to grow, it is becoming increasingly important to address the legal ambiguities surrounding the classification of their legal status in armed conflicts. The central focus of this chapter is on the Wagner Group, and its legal status which remains ambiguous both under Russian domestic law and international law. As such, the Wagner Group serves as a critical case study for examining the legal status of PMSCs in the context of NIACs.

Various terminologies exist in an attempt to define these private actors, including private military companies (PMCs), private security companies (PSCs), private military and security

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<sup>30</sup> In the 1970s and 1980s, Executive Outcomes supported the South African Defence Force in Angola and Mozambique. In the 1990s, the UK hired Sandline International for military support in Sierra Leone. In 2003, the UK contracted Aegis Defence Services for security in Iraq, and G4S in 2002 for security in Afghanistan. The US relied on private actors like Blackwater and Triple Canopy in Iraq and Afghanistan. These companies merged in 2014 to form Constellis, providing services to the US military from 2003-2004.

<sup>31</sup> Hannah Tonkin, *State Control over Military and Security Companies in Armed Conflict* (Cambridge University Press 2011).

companies (PMSCs), privatised military firms (PMFs),<sup>32</sup> or private military providers.<sup>33</sup> At the centre of this discussion is the distinction between their military and security functions. Some authors have attempted to divide this private sector into two categories: PSCs and PMCs. This division is based on the types of services provided by the company, such as security services (physical security, executive protections, risk assessment, consulting) or combat-related functions (direct combat, reconnaissance, intelligence gathering). However, many companies operate on both sides of this differentiation, rendering this distinction of little value.<sup>34</sup>

Currently, there is no universally agreed-upon definition for PMSCs within existing treaties. Efforts, however, have been made to address this issue through initiatives like the Montreux Document<sup>35</sup> adopted in 2008, and the International Code of Conduct for Private Security Service Providers (ICoC) adopted in 2010. The Montreux Document defines PMSCs as entities that offer military and security services,<sup>36</sup> while the ICoC defines them as companies that provide security-related services. Both documents stress the need for PMSCs to operate in a responsible manner, with transparency, accountability, and oversight, to ensure their actions align with international norms and principles, IHL, HRL, and national laws. To further regulate and monitor PMSC activities, the open-ended intergovernmental working group (IGWG) on PMSCs has proposed a draft instrument for an international regulatory framework.<sup>37</sup> The draft defines PMSCs as ‘private business entities that offer military and/or security services’ through individuals or legal entities, with separate definitions for military and security services.<sup>38</sup>

To ensure accuracy and consistency, this dissertation will use the term ‘private military and security company’ (PMSC). A PMSC includes any business providing any of the services described above, during a situation of armed conflict. In the absence of a universally agreed upon definition, the dissertation recognises that the designation of a company as a PMC, PSC,

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<sup>32</sup> PW Singer, ‘Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security’ (2001) 26 *The MIT Press* 186, 186. Singer uses the term PMFs to describe profit-driven organisations that provide professional services linked to the conduct of hostilities and specialise in the provision of military skills.

<sup>33</sup> Sean McFate, *The Modern Mercenary: Private Armies and What They Mean for World Order* (Oxford University Press 2014) 10.

<sup>34</sup> Åse Gilje Østensen and Tor Bukkvoll, ‘Russian Use of Private Military and Security Companies – the Implications for European and Norwegian Security’ (FFI-Rapport, 11 September 2018) 7.

<sup>35</sup> ‘Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict’ (17 September 2008).

<sup>36</sup> *ibid* 9.

<sup>37</sup> *Resolution 36/11 adopted by the Human Rights Council on 28 September 2017 A/HRC/RES/36/11* (2017).

<sup>38</sup> Chair-Rapporteur Mxolisi Sizo Nkosi, ‘Revised Second Draft Instrument on an International Regulatory Framework on the Regulation, Monitoring of and Oversight over the Activities of Private Military and Security Companies’ (10 March 2023) art. 1(c), (d) and (f).



or PMSC has no consequence for the determination of their status under international law with respect to an armed conflict. Therefore, no matter how the Wagner Group may define itself, it is the services they provide and the context in which they provide them in that defines them as a matter of law. However, as will be discussed in the following chapter, differentiating between a company as a PMC or a PSC holds significant importance within the framework of Russian domestic law. This distinction plays a crucial role in determining the legality of such entities and attributing responsibility accordingly under Russian domestic law.

## 2.1. Domestic Legal Framework

Understanding the legality of PMSCs in Russia requires a clear distinction between PMC and PSC. PSCs have legally operated in Russia since 1992 and can register as legal entities as long as they provide security services exclusively.<sup>39</sup> However, the formation of armed units (PMCs) outside State control is strictly prohibited by the Russian Constitution under article 13(5).<sup>40</sup> This provision aims to prevent the establishment of anti-State militias and explicitly forbids the creation of armed units by public associations.<sup>41</sup> Licensed PSCs on the other hand, are permitted by Russian law to carry and use weapons in specific situations, offer consulting and protection services to civilians and objects, as well as armed guarding of properties and facilities.<sup>42</sup>

The origins of the Wagner Group are well detailed by Kimberly Marten, Åse Gilje Østensen and Tor Bukkvoll.<sup>43</sup> The Wagner Group, also known as *ChVK Vagner* or Private Military Company Wagner,<sup>44</sup> is believed to have originated from the private security firm Antiterror-Orel, which was registered in 2003 as an educational and training centre.<sup>45</sup> Antiterror-Orel, in collaboration with another PSC called Tiger Top Rent Security, allegedly secured contracts to provide security services to Russian businesses operating in Iraq, particularly in the oil and gas

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<sup>39</sup> Federal Law N 2487-I on Private Detective and Security Activity in the Russian Federation (Russia); Federal Law No 129-FZ on the State Registration of Legal Entities and Individual Businessmen (Russia 2001); Civil Code of the Russian Federation Part One No 51-FZ (Russia 1994).

<sup>40</sup> Constitution of the Russian Federation art 13(5) (Russia 1993).

<sup>41</sup> *ibid* at undefined 13(5).

<sup>42</sup> Federal Law N 2487-I, art 3 and 11.

<sup>43</sup> Kimberly Marten, 'Russia's Use of Semi-State Security Forces: The Case of the Wagner Group' (2019) 35 *Routledge* 181; Åse Gilje Østensen, 'In the Business of Peace: The Political Influence of Private Military and Security Companies on UN Peacekeeping' (2013) 20 *International Peacekeeping* 33; Østensen and Bukkvoll (n 34); Åse Gilje Østensen and Tor Bukkvoll, 'Private Military Companies – Russian Great Power Politics on the Cheap?' (2021) 33 *Taylor & Francis* 130.

<sup>44</sup> In Russian: *Chastnaya Voennaya Kompaniya* 'Vagner'.

<sup>45</sup> Marten (n 43) 190; Østensen and Bukkvoll (n 34) 22.

sector.<sup>46</sup> Over time, Antiterror-Orel underwent fragmentation, leading to the emergence of various splinter groups, including the Moran Security Group.<sup>47</sup> The Moran Security Group operated internationally, offering services such as security, transportation, medical assistance, rescue operations, and consulting.<sup>48</sup> Its primary focus was on providing armed guards and intelligence for Russian oil tankers, port facilities, and offshore rigs to combat piracy. The group had two registered companies in Moscow, one involved in marine passenger transport and the other in private protection.<sup>49</sup> However, the latter ceased operations in 2014, just two years after its establishment. In 2013, two members of the Moran Security Group, Vadim Gusev and Yevgeny Sidorov, established the Slavonic Corps, which, unlike its Russian counterparts, was based in Hong Kong to avoid legal repercussions.<sup>50</sup> In 2020, a Norwegian study revealed that the Syrian government had hired Moran Security Group to support their forces in the fight against the Islamic State.<sup>51</sup> The subsidiary sent 250 soldiers to capture the territory, but the mission was unsuccessful.<sup>52</sup> After returning to Russia, the leaders of the Slavonic Corps, Gusev and Sidorov, were arrested and found guilty of engaging in ‘mercenary activities’<sup>53</sup> under Russian criminal law.<sup>54</sup>

The Wagner Group is believed to have emerged shortly after the cessation of the Slavonic Corps in 2014.<sup>55</sup> Dmitry Utkin, a Ukrainian-born Russian army officer who was a former special forces officer in the GRU (Russian Secret Services) with the rank of lieutenant colonel, became the commander of the newly formed Wagner Group.<sup>56</sup> Utkin was previously associated with the Moran Security Group and had taken part in the unsuccessful operation of the Slavonic

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<sup>46</sup> Østensen and Bukkvoll (n 34) 22.

<sup>47</sup> *ibid.*

<sup>48</sup> *ibid* 22–23.

<sup>49</sup> *ibid* 23; Marten (n 43) 190–91.

<sup>50</sup> Faulkner (n 26) 29; Marten (n 43) 191.

<sup>51</sup> András Rácz, ‘Band of Brothers: The Wagner Group and the Russian State’ (CSIS, 21 September 2020) <<https://www.csis.org/blogs/post-soviet-post/band-brothers-wagner-group-and-russian-state>> accessed 19 June 2023.

<sup>52</sup> ‘The Head of the CIA Announced the Death of “a Couple of Hundred” Russians during the February Coalition Airstrike in Syria’ (*NewsRu*, 12 April 2018) <<https://www.newsru.com/world/12apr2018/pompeosays.html>>.

<sup>53</sup> Civil Code of the Russian Federation Part One No 51-FZ art 359 (Russia 1994). ‘Mercenarism’ is illegal under the Russian Criminal Code.

<sup>54</sup> The Criminal Code of the Russian Federation 63-FZ, art 359 (Russia 1996); Zgirovskaya Ekaterina and Vladimir Dergachev, ‘Russian Mercenaries in the Battles for Palmyra’ (*Gazeta.Ru*, 24 March 2016) <[https://www.gazeta.ru/politics/2016/03/22\\_a\\_8137565.shtml](https://www.gazeta.ru/politics/2016/03/22_a_8137565.shtml)>.

<sup>55</sup> Rácz (n 51).

<sup>56</sup> *ibid*; Østensen and Bukkvoll (n 34) 24; Marten (n 43) 192.

Corps in Syria.<sup>57</sup> The rise of the Wagner Group is often attributed to alleged financial backing from Yevgeny Prigozhin, a Russian oligarch and owner of the Concord company group.<sup>58</sup>

The legal status of PMCs in Russia is a complex issue. While there have been several bills advocating for their legalisation and regulation, they have all been rejected as unconstitutional.<sup>59</sup> In March 2018, the Russian Cabinet of Ministers, which included several key Ministries and security agencies, refused to support the bill stating that it would be in violation of the Constitution.<sup>60</sup> The Cabinet also stated that article 71 stipulates that the responsibility for defence and security lies solely with State authorities.<sup>61</sup> In April 2021, the Permanent Mission of the Russian Federation in Geneva stated in a letter to the Office of the UN High Commissioner for Human Rights (OHCHR) that the Unified State Register is incapable, by definition, of listing entities like the Wagner Group in its Register<sup>62</sup> as the Group does not hold official recognition as a legal entity in Russia and is by the State's current interpretation, 'unconstitutional'.<sup>63</sup> President Putin's contradictory statements about the Wagner Group have also contributed to the uncertainty. Denying its existence in the past but later admitting that the Group was 'fully financed' by the government. President Putin noted that between May 2022 and May 2023, the Group received approximately 86 billion Rubles from the government to pay military salaries and bonuses.<sup>64</sup>

## 2.2. International Legal Framework

Although neither combatant nor prisoner of war (POW) status is recognised under IHL during a NIAC, determining the legal status of persons involved in a NIAC remains crucial, as this

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<sup>57</sup> Rác (n 51).

<sup>58</sup> 'Media: Wagner Group Commander Becomes CEO of Putin's Friend's Catering Business' (*UAWire*, 16 November 2017) <<https://uawire.org/wagner-group-commander-becomes-ceo-of-putin-s-friend-s-catering-business>>; Sergey Sukhankin, 'War, Business and "Hybrid" Warfare: The Case of the Wagner Private Military Company (Part One)' (2018) 15 *Eurasia Daily Monitor*. Prigozhin is sometimes called 'Putin's chef' due to his catering background and connection to President Vladimir Putin. Prigozhin's companies catered for the Kremlin and the Moscow school systems.

<sup>59</sup> Marten (n 43) 186; Gregory Sysoev, 'Putin Supported the Idea of Creating Private Military Companies in Russia' (РИА Новости, 11 April 2012) <<https://ria.ru/20120411/623227984.html>>; Constitution of the Russian Federation, art 13(5).

<sup>60</sup> Constitution of the Russian Federation, s 5 art 13.

<sup>61</sup> 'Kremlin Blocks the Bill Legalizing Russian Private Military Companies' (*UAWire*, 28 March 2018) <<https://uawire.org/russia-will-not-legalize-mercenaries>>; Constitution of the Russian Federation, art 71.

<sup>62</sup> 'Information from the Russian Federation in Response to the Joint Enquiry of the Special Procedures of the Human Rights Council on the Alleged Activities of Russian PMSCs in the Central African Republic' (24 March 2021) para 2.

<sup>63</sup> Constitution of the Russian Federation, undefined 13(5); Marten (n 43) 184.

<sup>64</sup> 'Meeting with Defence Ministry Personnel' (*President of Russia*, 27 June 2023) <<http://www.en.kremlin.ru/events/president/news/71535>>.

establishes the level of protection and treatment guaranteed by IHL. Like all parties involved, PMSCs and their personnel are obligated to adhere to the provisions of IHL when operating in a situation of armed conflict.

The Montreux Document states that the status of PMSC personnel in an armed conflict should be determined by IHL on a case-by-case basis.<sup>65</sup> In particular, this will be according to the nature of their activities and functions in which they are involved. Unless they are incorporated in the armed forces of a State or have combat functions which makes them participate directly in hostilities, the personnel of a PMCs should be considered as civilians.<sup>66</sup> Thus their legal status will depend on their employment contracts, roles, and activities on the ground. However, this also means that their legal status can vary depending on the specific circumstances, making it challenging to provide clear guidance. Close cooperation between States and PMSCs in conflict situations can further complicate the proper classification of their status. The Montreux Document, however, is limiting in that it lacks sufficient regulatory guidance of PMSCs in the context of NIACs (notably the document only mentions ‘non-international armed conflicts’ on three occasions).<sup>67</sup>

When considering the status of PMSC personnel under IHL, there are four categories which are factually distinguishable during NIACs. These are persons belonging to the armed forces of a High Contracting Party, persons belonging to dissident armed forces or organised groups, civilians, and civilians as direct participants in hostilities. Common Article 3 applies to ‘each Party to the conflict’, while Protocol II specifically refers to the armed forces of the High Contracting Party, dissident armed forces, or other organised armed forces. The Commentary to Protocol II explains that the term ‘armed forces’ should be understood broadly to include all armed forces, including those not officially recognised by a State's national legislation.<sup>68</sup>

Membership of a State's armed forces is determined by a State's domestic law, expressed through formal incorporation into permanent units often identifiable by features such as uniforms, emblems, and equipment.<sup>69</sup> In contrast, membership of irregular armed groups, such

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<sup>65</sup> ‘Montreux Document’ (n 35) 14.

<sup>66</sup> *ibid.*

<sup>67</sup> *ibid* 36 and 37.

<sup>68</sup> ‘Commentary on the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)’ (ICRC 1987) para 4462.

<sup>69</sup> Nils Melzer, *Direct Participation in Hostilities under International Humanitarian Law* (0990/002, ICRC 2009) 29–31.

as dissident or organised armed groups, are generally not provided for in domestic legislation.<sup>70</sup> IHL employs a definitive criterion to ascertain whether a group can be classified as an armed force belonging to a non-State armed group. The application of this criterion is dependent on an individual's continuous military role. If their function entails direct participation in hostilities (DPH), it is categorised as a 'continuous combat function' (CCF).<sup>71</sup> A person's CCF may include preparation, execution, or command of acts or operations and it must amount to their DPH.<sup>72</sup> This differentiation distinguishes between members of irregular armed forces and civilians who are DPH, whether it be on a spontaneous or sporadic basis.<sup>73</sup> It is understood in some quarters that, for the duration of time that PMSC personnel assume a CCF for an organised armed group belonging to a non-State party, they become members of that group.<sup>74</sup>

Similarly, private actors can act on behalf of a State and be considered organs of that State under international law even if they are not formally incorporated into the State's armed forces.<sup>75</sup> In the context of the Bosnian Genocide case before the International Court of Justice (ICJ), the court established that for an entity to be considered a *de facto* state organ, it must demonstrate 'complete dependence' upon the state and experience 'strict control' by the state over its actions.<sup>76</sup> Although this standard is rigorous, if a non-state actor were to meet this criteria, they would be accorded the same legal status as a state organ recognised by the State's relevant domestic law. This emphasises that formal incorporation alone does not solely determine whether the personnel or group can be recognised as part of a State's armed forces under international law.<sup>77</sup> This classification is based on the understanding that PMSCs can be contracted by governments to provide military and security services.

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<sup>70</sup> Luisa Vierucci, 'Private Military and Security Companies in Non-International Armed Conflicts: Ius Ad Bellum and Ius in Bello Issues' (AEL, EUI Working Paper, 2009) 36.

<sup>71</sup> *ibid* 20; Melzer (n 69) 39.

<sup>72</sup> Melzer (n 69).

<sup>73</sup> *ibid* 34; Vierucci (n 70) 16.

<sup>74</sup> Melzer (n 68) 43; 'Report of the Detailed Findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestine Territory' (18 March 2019) paras 103–107. The UN Commission of Inquiry on the 2018 protests in the OPT observed that the concept 'CCF' does not appear in IHL treaties and has been contested and criticised for expanding the definition of 'DPH' and potentially increasing the risk of mistaken targeting. CCF remains unsettled when assessed as custom. The Commission accepted the following interpretation that civil defence personnel, civilian police officers, and similarly tasked security officers are considered civilians unless they take DPH. Their membership in such services does not amount to DPH or CCF. In case of doubt, the presumption should be civilian status.

<sup>75</sup> Vierucci (n 70) 16.

<sup>76</sup> *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* [2007], paras 391–394.

<sup>77</sup> Vierucci (n 70) 16.

The principle of distinction under IHL requires that civilians be protected from direct attacks, unless and until they become DPH. DPH refers to the specific circumstances in which a civilian may lose their immunity from attack and be considered a legitimate military target during IACs and NIACs.<sup>78</sup> Article 13(3) of Protocol II outlines when a civilian may lose their immunity from intentional attacks during a NIAC, stating that protection from intentional attacks are forfeited ‘for such time’ as civilians ‘take a direct part in hostilities’. The commentary to Protocol II explains that DPH refers to ‘acts of war which by their nature or purpose are likely to cause actual harm to the personnel and equipment of the enemy armed forces’.<sup>79</sup> Often PMSC personnel are not officially incorporated into a State’s armed forces, assuming functions which do not require their DPH. In such cases, they are generally considered as civilians and are safeguarded against attacks according to IHL.<sup>80</sup> Nonetheless, their close proximity to military objectives and armed forces may expose them to an increased risk of harm from military operations.

### CHAPTER THREE

#### 3. Investigation of the Wagner Group’s Role in Violations of IHL and HRL in the CAR and Mali

This chapter will examine the involvement of the Wagner Group in the CAR and Mali, with focus on their role in the NIACs in these regions and their alleged violations of IHL and HRL. IHL is a set of binding rules and principles that impose obligations on parties involved in armed conflict. Geneva Law covers the protection of persons in the power of a party to an armed conflict while Hague Law governs the conduct of hostilities.<sup>81</sup> CAR and Mali are party to the four Geneva Conventions (whose Common Article 3 regulates NIACs) as well as to Protocol II, which applies to certain NIACs (where an organised armed group controls territory). Both States are party to the 1998 Rome Statute of the International Criminal Court.<sup>82</sup>

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<sup>78</sup> ‘Protocol II’ (n 5) art. 13(3).

<sup>79</sup> ‘Commentary Protocol II’ (n 68) para 4788.

<sup>80</sup> Melzer (n 69) 40.

<sup>81</sup> ‘Protocol II’ (n 5) art. 1, 4, 5; ‘Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, 75 UNTS 31’ (21 October 1950) art. 3.

<sup>82</sup> ‘Rome Statute of the International Criminal Court (Signed on 17 July 1998, Entered into Force on 1 July 2002)’ (no date) vol A/CONF.183/9.

The obligation to respect and ensure respect for IHL is a fundamental principle of international law.<sup>83</sup> States Parties, including those involved in armed conflicts, are required to uphold and ensure respect for the Geneva Conventions and their Additional Protocols.<sup>84</sup> This obligation extends to their armed forces, individuals or groups acting on their behalf,<sup>85</sup> and their entire populations.<sup>86</sup> Regardless of their legal status, the personnel of PMSCs must abide by IHL, which applies during armed conflicts, and HRL imposed upon them by domestic law in the States where they operate.<sup>87</sup>

According to the International Law Commission (ILC) Draft Articles on State Responsibility for Internationally Wrongful Acts (ASR), the wrongful acts of private actors can be attributed to a State if they are empowered by that State to ‘exercise elements of governmental authority’ or when they are ‘acting under instructions of, or under the direction or control of, that State in carrying out the conduct’.<sup>88</sup> The application of this extends beyond the actions of State organs as defined by a State's domestic laws and encompasses other individuals or groups acting on behalf of the State.<sup>89</sup> Including, in certain cases, PMSCs whose services are contracted by a State.<sup>90</sup>

PMSCs must adhere to the principles of distinction, proportionality, precaution, humanity, and military necessity in their conduct of hostilities. These principles, established under IHL, seek to limit the destruction and suffering caused by armed conflict and guide parties involved in armed conflicts to protect civilians and civilian objects while allowing for the legitimate use of force when necessary. The principle of distinction requires the distinction between civilians and legitimate military targets, ensuring that harm to civilians and civilian objects is minimised in relation to the military advantage gained.<sup>91</sup> PMSCs must exercise constant care to spare

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<sup>83</sup> ‘Geneva Convention I’ (n 81) art. 1.

<sup>84</sup> ‘International Humanitarian Law Databases’ (*IHL Databases*, no date) r. 144 <<https://ihl-databases.icrc.org/en/customary-ihl/v1>>. ‘States may not encourage violations of [IHL] by parties to an armed conflict. They must exert their influence...to stop violations of [IHL].’

<sup>85</sup> *ibid* r. 139.

<sup>86</sup> ‘Commentary on the Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field’ (ICRC 2020) para 151.

<sup>87</sup> ‘Montreux Document’ (n 35) paras 22–26.

<sup>88</sup> ‘Draft Articles on the Responsibility of States for Internationally Wrongful Acts, with Commentaries’ (A/56/10, 2001) 40, 45. States are responsible for its organs’ conduct, even if that organ acts *ultra vires*, provided that the organs is acting within that capacity; International Law Commission, ‘Draft Articles on Responsibility of States for Internationally Wrongful Acts’ (2001) art. 5 and 8.

<sup>89</sup> ‘Geneva Convention I Commentary’ (n 86) para 177; ‘ASR Commentaries’ (n 88) 40.

<sup>90</sup> ‘Geneva Convention I Commentary’ (n 86) para 177.

<sup>91</sup> OHCHR, ‘Report on the Events of Moura 27 to 31 March 2022’ (May 2023) para 32; ‘Protocol II’ (n 5) art. 4(1).

civilians from the effects of conflict, demonstrating respect for human dignity at all times.<sup>92</sup> Furthermore, they are expected to ensure that their use of force is both proportionate and necessary.<sup>93</sup>

The relationship between IHL and HRL has long been debated, particularly in the context of armed conflicts. The International Court of Justice (ICJ) addressed this issue in its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons. The ICJ affirmed the protection of the International Covenant on Civil and Political Rights (ICCPR) remains in effect during times of war and that the right to life applies even in hostilities.<sup>94</sup> However, the ICJ also recognised that the determination of what constitutes an arbitrary deprivation of life must be made according to the applicable *lex specialis*, or the law that governs armed conflicts.<sup>95</sup> This statement is widely accepted as reflecting the principle that HRL applies universally and constitutes the *lex generalis*, while IHL applies only during armed conflicts and constitutes the *lex specialis*. Despite their differences in scope and implementation, IHL and HRL may be observed as being complementary and mutually reinforcing. Both bodies of law seek to protect lives and preserve dignity.<sup>96</sup> The primary objective of HRL is to ensure the protection of individuals from the abuse of power by their own governments.<sup>97</sup> It confers rights directly on individuals, bypassing the involvement of States. General provisions in all major human rights treaties mandate that States safeguard the rights of individuals under their jurisdiction.<sup>98</sup>

The Russian Federation, the CAR, and Mali are all party to the main international legal instruments relating to human rights.<sup>99</sup> The CAR and Mali are also party to most of the main regional human rights treaties.<sup>100</sup> States assume primary responsibility for the preservation and implementation of human rights, including core constitutional rights and international duties arising from human rights treaties. According to Article 2 of the ICCPR, every State party to the Covenant is responsible for upholding and guaranteeing the human rights recognised in the

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<sup>92</sup> OHCHR (n 91) para 32.

<sup>93</sup> 'ICRC CIHL Rules' (n 28) r. 15; 'Protocol II' (n 5) art.13(1).

<sup>94</sup> ICJ (n 21) 240.

<sup>95</sup> *ibid.*

<sup>96</sup> 'What is the Difference between IHL and Human Rights Law?' (2004) 41; 'General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant' (26 May 2004) 11.

<sup>97</sup> Tonkin (n 31) 142.

<sup>98</sup> *ibid* 177.

<sup>99</sup> See 'Status of Ratification' (*United Nations OHCHR*) <<https://indicators.ohchr.org/>> for ratification status for CAR, Mali, and Russia.

<sup>100</sup> 'UN Treaty Body Database' (*UN Human Rights Treaty Bodies*, no date) <[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=107&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=107&Lang=EN)>.



Covenant to all individuals within its territory and under its jurisdiction.<sup>101</sup> In its general commentary, the Human Rights Committee (HRC) reaffirmed that States parties to the ICCPR have positive obligations to ensure that individuals are protected against human rights violations committed not only by State actors but also by private persons or entities.<sup>102</sup> The HRC emphasised that the full discharge of these obligations requires States to take appropriate measures to exercise due diligence in preventing, punishing, investigating, or redressing the harm caused by private actors.<sup>103</sup>

### 3.1. Central African Republic

In 2018, ‘Russian Instructors’ were deployed to the CAR as part of a military cooperation agreement between the Russian Federation and the CAR government.<sup>104</sup> The deployment consisted of 175 Russian instructors, including 5 military and 170 civilian personnel,<sup>105</sup> who were tasked with training the FACA to properly handle weapons and ammunition.<sup>106</sup> The Security Council Committee was notified of their deployment on 26 December 2017. Over the course of a year, the Russian instructors trained around 900 FACA soldiers and Presidential Guards.<sup>107</sup> The Russian Instructors were also involved in armed escorts and hospital security in Bria.<sup>108</sup> In 2020, Russia and the RDF provided security assistance to the CAR pursuant to bilateral agreements.<sup>109</sup> However, as the security situation deteriorated ahead of the 2020 elections, the Wagner Group’s operations in the CAR changed dramatically in late 2020.<sup>110</sup> The CPC launched attacks across the country with the aim of overthrowing President Faustin-Archange Touadéra’s government. Between December 2020 and January 2021, CPC-aligned armed groups made significant territorial gains, resulting in the CPC controlling about two-thirds of the country by the end of January.<sup>111</sup> Although initially referred to as ‘Russian

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<sup>101</sup> ‘International Covenant on Civil and Political Rights’ (23 March 1976) vol UNTS 999, art. 2.

<sup>102</sup> ‘General Comment no 31’ (n 96) para 80.

<sup>103</sup> *ibid* para 8.

<sup>104</sup> United Nations Security Council, ‘Final Report of the Panel of Experts on the CAR Extended Pursuant to Security Council Resolution 2399 (2018)’ (14 December 2018) para 175.

<sup>105</sup> United Nations Security Council, ‘Midterm Report of the Panel of Experts on the Central African Republic Extended Pursuant to Security Council Resolution 2399 (2018)’ (23 July 2018) para 12.

<sup>106</sup> United Nations Security Council, ‘Report S/2018/1119’ (n 104) paras 175–176.

<sup>107</sup> United Nations Security Council, ‘Midterm report of the Panel of Experts on CAR (2018)’ (n 105) 30.

<sup>108</sup> *ibid* para 13.

<sup>109</sup> United Nations Security Council, ‘Final Report of the Panel of Experts on the CAR Extended Pursuant to Security Council Resolution 2536 (2020)’ (25 June 2021) para 64.

<sup>110</sup> ‘Wagner Group Operations in Africa: Civilian Targeting Trends in the Central African Republic and Mali’ (*ACLEDD*, 30 August 2022) <<https://acleddata.com/2022/08/30/wagner-group-operations-in-africa-civilian-targeting-trends-in-the-central-african-republic-and-mali/#s6>>.

<sup>111</sup> *ibid*.

instructors,’ it has been confirmed that the Russian presence in the CAR is, in fact, the Wagner Group.<sup>112</sup>

According to the Armed Conflict Location & Event Data Project (ACLED), the Wagner Group, consisting of approximately 2,600 fighters, became one of the primary agents of political violence in the CAR after joining FACA in active fighting against the CPC in December 2020.<sup>113</sup> Between December 2020 and May 2023, nearly 40 per cent of all political violence events recorded by ACLED in the CAR involved the Wagner Group.<sup>114</sup> Between October to December 2022, MINUSCA documented 483 cases of human rights violations, affecting 1,300 civilians,<sup>115</sup> with 401 civilians experiencing multiple violations.<sup>116</sup> State actors, including foreign allies, were reportedly responsible for the majority of these violations, accounting for 58 per cent of all cases.<sup>117</sup> The most common types of violations during this period were arbitrary detention and inhuman conditions of detention.<sup>118</sup> ACLED’s report also revealed that Wagner personnel operated independently of FACA in at least 50 per cent of political violence incidents each month from May 2021 to July 2022.<sup>119</sup> Notably, when Wagner elements operated independently, civilian targeting accounted for 70 per cent of political violence events between December 2020 and July 2022. However, this figure dropped to 27 per cent when Wagner activity was carried out alongside State forces.<sup>120</sup>

The Panel of Experts on CAR stated that civilians were disproportionately targeted during the crisis. Many civilians have become victims of IHL, and human rights violations committed by FACA, but primarily by Wagner troops.<sup>121</sup> This includes cases of excessive use of force, indiscriminate killings, summary executions, enforced disappearances, the occupations of

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<sup>112</sup> Sergey Lavrov, ‘Foreign Minister Sergey Lavrov’s Interview with RT Television’ (Television, 26 June 2023); ‘Briefing by Foreign Ministry Spokeswoman Maria Zakharova’ (*The Ministry of Foreign Affairs of the Russian Federation*, 28 June 2023) <[https://mid.ru/en/foreign\\_policy/news/1894293/](https://mid.ru/en/foreign_policy/news/1894293/)>; ‘Wagner Forces Return to CAR before Divisive Referendum’ (*Deutsche Welle*, 19 July 2023) <<https://www.dw.com/en/russias-wagner-forces-return-to-car-ahead-of-divisive-referendum/a-66279166>>.

<sup>113</sup> Ladd Serwat and others, ‘Moving out of the Shadows: Shifts in Wagner Group Operations Around the World’ (2023) 25.

<sup>114</sup> ‘Wagner Group Operations in Africa’ (n 110).

<sup>115</sup> ‘Human Rights Quarterly Brief on the Central African Republic’ (2022) 8.

<sup>116</sup> *ibid* 1,2,8.

<sup>117</sup> *ibid* 6.

<sup>118</sup> *ibid* 3 and 5.

<sup>119</sup> ‘Wagner Group Operations in Africa’ (n 110).

<sup>120</sup> *ibid*. Under IHL civilians enjoy protection against dangers arising from military operations. The rule of civilian immunity represents international customary law. Thus, binding all parties to the NIAC.

<sup>121</sup> United Nations Security Council, ‘Report S/2021/569’ (n 109) 2.

schools and looting on a large scale, including of humanitarian organisations.<sup>122</sup> Countless reports of indiscriminate killing against unarmed civilians have also been documented.<sup>123</sup>

In June 2022, the UN Secretary-General's report expressed concern about the ongoing targeting of ethnic and religious groups in the CAR.<sup>124</sup> The report highlighted that both the FACA and Wagner Group were disproportionately targeting certain communities, such as the Gbaya, Fulani, and Muslims, based on suspicions of their involvement with armed groups.<sup>125</sup> Local communities expressed fear of being generalised by the 'Russian instructors' during operations.<sup>126</sup> In February 2021, a joint military operation by Wagner forces and FACA soldiers took place near a UPC base, resulting in incidental harm to civilians.<sup>127</sup> The operation, which targeted non-State armed group members seeking refuge in the al-Takwa mosque in Bambari,<sup>128</sup> led to the discovery of 15 bodies, including women, children, and elderly individuals.<sup>129</sup> In the following months, there was a consistent pattern of violence against civilians by Wagner elements, with a particular focus on ethnic Fulani people and Muslims.<sup>130</sup> This targeting was due to the recruitment of Fulani soldiers by several CPC-affiliated militias, making anyone suspected of collaboration a potential target for the Wagner Group.<sup>131</sup>

From December 6 to 13, 2021, Wagner Group elements, FACA soldiers, and anti-balaka fighters launched an attack on the village of Boyo.<sup>132</sup> The attack, as reported by the OHCHR, was coordinated and premeditated with the purpose of seeking retribution against Muslims who were perceived to be supportive of the UPC.<sup>133</sup> After taking control of Boyo, the attackers committed various human rights violations, including murder, hostage-taking, looting, property

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<sup>122</sup> *ibid.*

<sup>123</sup> 'Final Report of the Panel of Experts on the Central African Republic Extended Pursuant to Security Council Resolution 2536 (2020)' (25 June 2021) para 89; 'Rome Statute of the International Criminal Court (Signed on 17 July 1998, Entered into Force on 1 July 2002)' (no date) vol A/CONF.183/9, art. 7(2)(e)(i). The intentional killing of civilians and any violence to person's life or body during armed conflict is considered a war crime and is prohibited under international law.

<sup>124</sup> United Nations Security Council, 'Report of the Secretary-General: Central African Republic' (16 June 2022).

<sup>125</sup> *ibid* para 101.

<sup>126</sup> United Nations Security Council, 'Report S/2021/569' (n 109) para 90.

<sup>127</sup> 'En Centrafrique, Des Victimes Des Exactions Russes Brisent La Loi Du Silence' (*RFI*, 3 May 2021) <<https://www.rfi.fr/fr/afrique/20210503-en-centrafrique-des-victimes-des-exactions-russes-brisent-la-loi-du-silence>>.

<sup>128</sup> United Nations Security Council, 'Report S/2021/569' (n 109) para 85.

<sup>129</sup> 'RFI' (n 127).

<sup>130</sup> Serwat and others (n 113) 25.

<sup>131</sup> *ibid.*

<sup>132</sup> 'Architects of Terror: The Wagner Group's Blueprint for State Capture in the Central African Republic' (The Sentry June 2023) 14.

<sup>133</sup> 'Rapport D'enquete Sur L'attaque de Boyo, Prefecture de La Ouaka: Du 6 Au 13 Décembre 2021' (July 2022) 2.

destruction, forced displacement, and sexual violence.<sup>134</sup> FACA and the Wagner Group held 700 civilians hostage in the village mosque for three days, using their weapons and grenades as threats.<sup>135</sup> A UN investigation confirmed the deaths of at least 20 civilians as a result of the attack.<sup>136</sup> However, both the perpetrators and victims interviewed by the Sentry claimed that the actual number of casualties was underestimated, with estimates ranging from 60 to 100 civilians killed during the incident.<sup>137</sup>

According to reports received by UN Experts, Wagner Group members have been accused of committing rape and sexual violence against women, men, and young girls in various parts of the CAR.<sup>138</sup> The exact number of victims remains unknown, as many survivors are afraid to report these crimes for fear of retaliation.<sup>139</sup> According to the Sentry, Wagner personnel, FACA members, and ex-militiamen committed sexual violence and rape on a systematic and widespread basis, particularly during military operations.<sup>140</sup> The prevalence of sexual violence on a large scale suggests that it is being used as a form of psychological warfare to intimidate and subjugate entire communities.<sup>141</sup> The Sentry's interviews revealed that the use of the word 'rape' was disturbingly common in reference to violations committed during State military operations, with numerous victims reporting instances of being gang-rape.<sup>142</sup> According to the Sentry, FACA members acknowledged that rape is committed systematically and extensively against men, women, and children as young as 10 years old.<sup>143</sup> While certain military sources denied receiving explicit orders to engage in rape, they did acknowledge that Wagner commanders and fighters, who are known to commit such violations, often promote and encourage this practice.<sup>144</sup> A military source reported that 'sometimes Russians take girls by force and bring them back with them...then we hear the screams'.<sup>145</sup> A victim of sexual abuse

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<sup>134</sup> *ibid* 2, 3, 10.

<sup>135</sup> *ibid* 7, 9.

<sup>136</sup> *ibid* 5.

<sup>137</sup> 'Architects of Terror' (n 132) 15.

<sup>138</sup> 'CAR: Russian Wagner Group Harassing and Intimidating Civilians – UN Experts' (*United Nations OHCHR*, 27 October 2021) <<https://www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts>>.

<sup>139</sup> *ibid*.

<sup>140</sup> 'Architects of Terror' (n 132) 19.

<sup>141</sup> *ibid*.

<sup>142</sup> *ibid*.

<sup>143</sup> *ibid* nn 225, 226.

<sup>144</sup> *ibid* 18.

<sup>145</sup> 'Architects of Terror: The Wagner Group's Blueprint for State Capture in the Central African Republic' (The Sentry June 2023) n 228; Common Article 3 prohibits rape and other forms of sexual violence in armed conflicts. These acts are considered violations of IHL and IHRL. Rape may violate the right to security of the person, the right to be protected from torture and other ill-treatment, and the right to the highest attainable standard of health, among other rights. It may be considered war crimes under article 8(2)(c)(ii) and article 8(2)(e)(vi) of the Rome

reported being raped by four Russian members and described how they gang-raped his daughters and sisters multiple times.<sup>146</sup>

The Wagner Group has been implicated in numerous opportunistic attacks.<sup>147</sup> These attacks not only benefit the individual interests of the Wagner Group members but also contribute to a broader pattern of behaviour aimed at controlling civilian populations through violent means. This pattern is also evident in their operations conducted in Mali.

### 3.2. Mali

In late 2021, the Wagner Group entered Mali as the Malian military junta shifted away from traditional international partners following the 2021 coup.<sup>148</sup> France reduced its military presence in Mali and ended joint operations with FAMA in June 2021. In November 2021, the Malian government announced a new security cooperation agreement with Russia, which involved the deployment of 1000 Russian contractors to assist FAMA.<sup>149</sup> According to reports, the contractors were expected to train the Malian armed forces and offer protection to senior officials.<sup>150</sup> During a UN meeting, Russian foreign minister Sergei Lavrov disclosed that Mali had requested the services of a private Russian military company to help combat insurgents.<sup>151</sup> However, in December 2021, the Malian government denied the deployment of Wagner Group personnel, maintaining that only 'Russian instructors' were providing assistance.<sup>152</sup> The government spokesman, Colonel Abdoulaye Maiga, signed a statement affirming that Bamako was solely engaged in a State-to-State partnership with the Russian Federation.<sup>153</sup>

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Statute. See *The Prosecutor v Jean-Paul Akayesu* (Trial Judgement), ICTR-96-4-T, International Criminal Tribunal for Rwanda para 688.

<sup>146</sup> 'Architects of Terror' (n 132) n 229.

<sup>147</sup> 'Architects of Terror' (n 132); Serwat and others (n 113); 'Wagner Group Operations in Africa' (n 110).

<sup>148</sup> Isabelle King, 'How France Failed Mali: The End of Operation Barkhane' (*HIR*, 30 January 2023) <<https://hir.harvard.edu/how-france-failed-mali-the-end-of-operation-barkhane/>>.

<sup>149</sup> Irish and Lewis (n 24); Jeune Afrique, 'Mali-Russia: Bamako to Sign Contract with Wagner Group' (*the africa report*, 17 September 2021) <<https://www.theafricareport.com/127421/mali-russia-bamako-to-sign-contract-with-wagner-group/>>.

<sup>150</sup> Irish and Lewis (n 24).

<sup>151</sup> Michelle Nichols, 'Lavrov Says Mali Asked Private Russian Military Company for Help' (*Reuters*, 26 September 2021) <<https://www.reuters.com/world/africa/mali-asked-private-russian-military-firm-help-against-insurgents-ifx-2021-09-25/>>.

<sup>152</sup> 'Mali Denies Using Russia's Wagner Mercenaries' (*Deutsche Welle*, 25 December 2021) <<https://www.dw.com/en/mali-denies-using-russias-wagner-mercenaries/a-60254715>>.

<sup>153</sup> 'Mali Denies Deployment of Russian Mercenaries from Wagner Group' (*France 24*, 25 December 2021) <<https://www.france24.com/en/africa/20211225-mali-denies-deployment-of-russian-mercenaries-from-wagner-group>>.

Despite the belief that the Wagner Group was present in Mali, the Panel of Experts on Mali could not confirm the identity, leadership, or affiliation of the Russian elements supporting FAMA in their operations. However, during the Panel's visit to Moscow on 30 March 2023, Russian officials acknowledged the presence of the Wagner Group elements in Mali.<sup>154</sup> Officials also confirmed that a small number of Russian military instructors were stationed at Bamako airport, although they were not involved in any operations.<sup>155</sup> In interviews with survivors of FAMA and Wagner operations, the foreign security partners are commonly referred to as 'The Whites/*Les Blancs*'.<sup>156</sup>

FAMA and the Wagner Group have been frequently implicated in attacks on civilians since the onset of the crisis. They are considered to be one of the primary actors responsible for a significant number of violations of IHL and HRL.<sup>157</sup> The distinction between civilians and non-State armed forces has become increasingly blurred during military operations involving FAMA and Wagner. MINUSMA, Human Rights Watch (HRW), and OHCHR have documented numerous instances of violations of IHL and HRL in both air and ground military operations.<sup>158</sup> The Wagner Group and FAMA stand accused of carrying out several deadly attacks that have deliberately targeted civilians in Mali. The majority of these attacks have been carried out in the Mopti, Ségou, Timbuktu, and Koulikoro regions, which are widely regarded as established areas of JNIM and ISGS.<sup>159</sup> Unlike CAR, ACLED has documented that the Wagner Group perpetrates the majority of its civilian targeting alongside Malian armed forces.<sup>160</sup>

In 2023, the OHCHR published a report concerning a fact-finding mission on the joint military operation conducted by FAMA and supported by the Wagner Group in the village of Moura (Mopti region) in March 2022.<sup>161</sup> This operation resulted in the single worst civilian massacre in the history of Mali's ongoing conflict, with at least 500 individuals killed.<sup>162</sup> FAMA stated that the large-scale operation was carried out in order to systematically 'clean out' the entire

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<sup>154</sup> United Nations Security Council, 'Final Report of the Panel of Experts on Mali Established Pursuant to Security Council Resolution 2374 (2017)' (3 August 2023).

<sup>155</sup> *ibid.*

<sup>156</sup> *ibid* para 72.

<sup>157</sup> 'Midterm Report of the Panel of Experts on Mali' (22 February 2023) para 61. Between July and September 2022 FAMA committed forty-three per cent of violations of IHL and HRL.

<sup>158</sup> United Nations Security Council, 'Report S/2023/578' (n 154) para 40.

<sup>159</sup> Jared Thompson, 'Examining Extremism: Islamic State in the Greater Sahara' (CSIS, 22 July 2021) <<https://www.csis.org/blogs/examining-extremism/examining-extremism-islamic-state-greater-sahara>>.

<sup>160</sup> 'Wagner Group Operations in Africa' (n 110).

<sup>161</sup> OHCHR (n 91).

<sup>162</sup> *ibid* para 77.

area of ‘terrorists’ hidden amongst the civilian population.<sup>163</sup> However, FAMA and the Wagner Group have been widely accused by several media outlets and human rights groups of committing serious IHL and human rights violations during this operation.<sup>164</sup>

On 27 March 2022, FAMA accompanied by the Wagner Group forces, launched a helicopter-borne military operation in the village of Moura.<sup>165</sup> The fact-finding mission confirmed that the military operation took place during a market held in the village, which had attracted thousands of civilians in preparation for Ramadan.<sup>166</sup> Including approximately 30 members of the Katibat Macina.<sup>167</sup> One of the helicopters opened fire indiscriminately towards the ‘Garbal’,<sup>168</sup> causing a movement amongst the crowd towards the centre of the village. Dismounted soldiers reportedly fired indiscriminately on civilians attempting to flee.<sup>169</sup> During the attack armed members of the Katibat Macina reportedly responded by firing in the direction of the helicopters and retreated, taking shelter in houses.<sup>170</sup> The attack resulted in the deaths of approximately 30 individuals, including several members of Katibat Macina, with the remaining casualties being predominantly civilians.<sup>171</sup>

After the attack, approximately 3000 men were gathered in the city centre. They were split into different groups and detained in four separate areas surrounding the village.<sup>172</sup> Of these, 58 individuals were arrested (on the basis of their physical appearance).<sup>173</sup> A first group of 40 individuals and a second group of 18 were all transferred to Sévaré by helicopter. That evening, 51 individuals were transferred to the Bamako Gendarmerie Camp. Some were relocated to the National State Security Agency and detained.<sup>174</sup> According to the mission, detainees were blindfolded upon transfer, interrogated and tortured during their detainment.<sup>175</sup> The following

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<sup>163</sup> *ibid* paras 24, 47, 64.

<sup>164</sup> Catrina Doxsee and Jared Thompson, ‘Massacres, Executions, and Falsified Graves: The Wagner Group’s Mounting Humanitarian Cost in Mali’ (CSIS, 11 May 2022) <<https://www.csis.org/analysis/massacres-executions-and-falsified-graves-wagner-groups-mounting-humanitarian-cost-mali>>; ‘Mali: Massacre by Army and Foreign Soldiers’ (Human Rights Watch, 5 April 2022) <<https://www.hrw.org/news/2022/04/05/mali-massacre-army-foreign-soldiers>>; ‘Mali: Anti-Jihadist Success or Massacre of Civilians, What Happened in Moura?’ (TFI INFO, 6 April 2022) <<https://www.tfi.info.fr/international/afrique-mali-succes-antijihadiste-contre-al-qaida-ou-massacre-de-civils-par-la-junte-et-wagner-que-s-est-il-passe-a-moura-2215782.html>>.

<sup>165</sup> OHCHR (n 91) para 38.

<sup>166</sup> *ibid* para 49.

<sup>167</sup> ‘Moura Massacre Report’ para 50. A militant Islamist group operating in Mali which is an affiliate of JNIM.

<sup>168</sup> A livestock market.

<sup>169</sup> OHCHR (n 91) para 38.

<sup>170</sup> *ibid* para 40.

<sup>171</sup> *ibid* para 74.

<sup>172</sup> *ibid* para 40.

<sup>173</sup> *ibid*.

<sup>174</sup> *ibid*.

<sup>175</sup> *ibid* paras 40, 72.

day, FAMA continued to search for the presumed ‘terrorists’ and the Imam was instructed to make a public announcement, urging men still hiding in the village to surrender voluntarily. Failure to do so would result in execution, or no quarter, if the soldiers were to find them.<sup>176</sup>

On the third day, some men in the village voluntarily surrendered themselves to the soldiers following an Imam's call.<sup>177</sup> Those who were not identified as jihadists during the sorting process were instructed by the soldiers to collect the bodies of the executed individuals and dispose of them in a pit.<sup>178</sup> According to witnesses, civilians who resisted or attempted to escape were systematically executed by both the 'white' soldiers and FAMA, with their bodies being dragged to a pit.<sup>179</sup> Once the pit was filled, the soldiers used gasoline and dry wood to burn it.<sup>180</sup> On the final day of the operation, soldiers continued searching for ‘terrorists’ among the gathered men.<sup>181</sup> Ten individuals suspected of being terrorists were detained, but four managed to escape.<sup>182</sup> The remaining six individuals, with their hands tied behind their backs, were executed.<sup>183</sup> The soldiers then instructed the villagers to gather and bury the remaining bodies scattered around the village. At around 11:00 a.m., the soldiers asked everyone to return to the village, and they left the area by air.<sup>184</sup>

## CHAPTER FOUR

### 4. Determining Accountability for Alleged Violations of IHL and HRL Committed by the Wagner Group and its Personnel

The conduct of the Wagner Group and its personnel has raised questions about attributing their actions to conduct rather than responsibility, encompassing State responsibility and individual criminal responsibility. This chapter will explore the different aspects of attribution, including

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<sup>176</sup> *ibid* para 44; ‘ICRC CIHL Rules’ (n 3) r. 46. It is prohibited to order, threaten or conduct hostilities on the basis that no quarter will be given to an adversary. Article 4(1) of Protocol II prohibits ordering that there shall be no survivors. Similarly, article 8(2)(e)(x) of the Rome Statute provides 'declaring that no quarter will be given' as a serious violation of the laws and customs applicable to NIACs.

<sup>177</sup> OHCHR (n 91) 44.

<sup>178</sup> *ibid* para 60.

<sup>179</sup> *ibid* art. 58.

<sup>180</sup> *ibid* para 60.

<sup>181</sup> *ibid* para 47.

<sup>182</sup> *ibid* para 64.

<sup>183</sup> ‘Moura Massacre Report’ para 47. Summary, extrajudicial or arbitrary executions and other forms of arbitrary deprivation of life are violations of IHRL. Article 6(1) of the ICCPR guarantees the right to life and prohibits arbitrary deprivation of life. The murders committed against civilians and persons who have surrendered or *hors de combat* constitute violations of IHL. Extrajudicial executions of civilians constitute blatant violations of the right to life and the Geneva Conventions if committed during an armed conflict.

<sup>184</sup> *ibid* para 64.



the role of the home State, contracting State, and host State in attributing responsibility for the Wagner Group's violations of IHL and HRL. Additionally, it will examine the potential criminal responsibility of PMSC personnel for war crimes and the possible direct responsibility of the Wagner Group as a company for human rights violations.

#### 4.1. Attribution of State Responsibility: Home State and Contracting State

##### 4.1.1. Home State: Russian Attribution for the Wagner Group's Breaches of IHL

The ILC's ASR specifies when a State can be held legally responsible for violating its international obligations through acts or omissions. Attribution is the legal process of linking the actions of individuals who act contrary to international norms to the State as a primary subject of international law.<sup>185</sup> Once this link is established, the State can be held accountable for the unlawful conduct committed and is liable through the notion of State responsibility for harm caused. However, assessing the degree of the required links between the State and the harmful conduct can be challenging.<sup>186</sup>

According to the ASR, the first rule of attribution pertains to the actions of a State's own organs, as outlined in Article 4.<sup>187</sup> The commentary of the ASR provides a comprehensive definition of the term 'State organ', which encompasses 'all the individual or collective entities which make up the organisation of the State and act on its behalf'.<sup>188</sup> The ASR recognises two types of State organs: *de jure* organs and *de facto* organs. *De jure* organs are considered State organs under domestic law, while *de facto* organs have a special relationship with the State that grants them that status.<sup>189</sup> *De jure* State organs are identified by examining the domestic law of the State in question. However, identifying *de facto* organs can be more challenging as they may not have a clear legal status but remain closely linked to the State and its operations. *De facto* organs are entities which lack legal status as official state organs yet share characteristics such as full dependency on the State and absence of autonomous authority.<sup>190</sup> Where private actors perform duties traditionally associated with government functions, whilst wholly dependent on and controlled by the State their conduct could be attributed to the State in terms of Article 4

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<sup>185</sup> Jennifer Maddocks, 'Russia, the Wagner Group and the Issue of Attribution' (*Articles of War*, 28 April 2021) <<https://lieber.westpoint.edu/russia-wagner-group-attribution/>>.

<sup>186</sup> *ibid.*

<sup>187</sup> 'ASR' (n 88) art. 4.

<sup>188</sup> 'ASR Commentaries' (n 88) 40.

<sup>189</sup> Maddocks (n 185).

<sup>190</sup> *Bosn & Herz v Serb & Montenegro* (n 76) paras 392–393.

of the ASR.<sup>191</sup> The ICJ has interpreted this rule consistently with the ASR and its commentary. As the Russian Armed Forces are a recognised *de jure* organ of State, Russia will bear international responsibility for any international law violations committed by its armed forces. Despite the recent acknowledgement of substantial financial backing by President Putin in the past,<sup>192</sup> the Wagner Group lacks legal recognition and designation as a State entity under Russian domestic law.<sup>193</sup> Harmful conduct committed by Wagner will not be attributable to Russia on this basis.

The second rule of attribution, Article 5 of the ASR, stipulates the possibility of attributing responsibility to a State in cases where a private entity, although not considered a State organ under Article 4, is authorised to exercise certain governmental functions.<sup>194</sup> Article 5 clearly restricts its application to entities that are authorised by domestic law to exercise governmental authority.<sup>195</sup> An entity is considered a State organ, even if it has independent discretion or authority to act, and it is not necessary to demonstrate that the conduct was carried out under the State's control.<sup>196</sup> However, the authorisation to exercise governmental authority must be in accordance with domestic law and it is thus unlikely that responsibility would be attributed to Russia on this basis.<sup>197</sup>

Article 8, however, provides for two circumstances where certain conduct may be attributable to the State: (1) a private entity acts on the instructions of the State or (2) a private entity acts under the State's direction or control.<sup>198</sup> In such situations, it is irrelevant whether the behaviour involves 'governmental activity'. These cases usually occur when State organs recruit private actors to act as 'auxiliaries' while remaining outside the official structure of the State.<sup>199</sup> Accordingly, if it can be shown that individuals who are not considered State organs under the State's legislation nonetheless act on behalf of the State, their conduct can be attributed to the State.<sup>200</sup> The ICJ ruled in the *Military and Paramilitary Activities in and against Nicaragua* case that a significant level of control is required for a State to be held responsible for the

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<sup>191</sup> 'ASR Commentaries' (n 88) art. 4.

<sup>192</sup> 'Meeting with Defence Ministry personnel' (n 64).

<sup>193</sup> Constitution of the Russian Federation, art 13(5).

<sup>194</sup> 'ASR Commentaries' (n 88) 42.

<sup>195</sup> *ibid* 43.

<sup>196</sup> *ibid*.

<sup>197</sup> *ibid*.

<sup>198</sup> *ibid* 47.

<sup>199</sup> *ibid*.

<sup>200</sup> *Prosecutor v Tadic* (n 2) para 118.

actions of private individuals.<sup>201</sup> The ICJ required that not only should private individuals be paid or financed by the State, but their actions should also be coordinated or supervised by the State with the State thus having ‘effective control’ over the acts of the private individuals or entity.<sup>202</sup> Additionally, the State should issue specific instructions regarding the commission of the unlawful acts in question.<sup>203</sup> To determine whether the Russian Government exerted effective control over the Wagner Group at the time it violated international law, the effective control test would have to be applied on a case-by-case basis.<sup>204</sup>

In the *Tadic* case, the International Criminal Tribunal for the former Yugoslavia (ICTY) Appeals Chambers noted that the *Nicaragua* case had established a rigorous standard for attributing the conduct of private actors to a State.<sup>205</sup> The Appeals Chamber disagreed that a high threshold for the test of control should be mandated in every situation under international law. Instead, different situations may require different levels of control.<sup>206</sup> According to the ICTY’s test, conduct would be attributable to a State if it wields ‘overall control’ over the group,<sup>207</sup> which includes not only ‘equipping and financing the group’ but also ‘coordinating or helping in the general planning of its military activity’.<sup>208</sup> The overall control test thus examines the broader relationship between the entity and the State.<sup>209</sup> When a State exercises this type of control over a military group, the group is considered to be equivalent to a State organ.<sup>210</sup> When such control is established the State can be held responsible under international law for any wrongdoing committed by the group, even if they were conducted independently or contrary to any State instructions.<sup>211</sup>

#### 4.1.2. The Contracting and Host States: CAR and Mali Attribution for the Wagner Group’s Violations of IHL

As contracting or host States, the CAR and Mali cannot evade their obligations under IHL and HRL by engaging the services of PMSCs. They remain responsible for upholding the applicable standards and ensuring respect for the relevant laws. If PMSC personnel commit serious

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<sup>201</sup> para 111.

<sup>202</sup> *ibid* para 115.

<sup>203</sup> *ibid* para 116.

<sup>204</sup> Maddocks (n 185).

<sup>205</sup> *Prosecutor v Tadic* (n 2) para 117.

<sup>206</sup> *ibid*.

<sup>207</sup> *ibid* para 120.

<sup>208</sup> *ibid* para 131.

<sup>209</sup> Maddocks (n 185).

<sup>210</sup> *Prosecutor v Tadic* (n 2) para 121.

<sup>211</sup> *ibid*; ‘ASR’ (n 88) art. 7.

violations of IHL or HRL, the State that has contracted them will be responsible if the violations can be attributed to it under international law. This is especially true if the PMSC acted under the instructions or direct control of State authorities.<sup>212</sup>

According to the ASR, a State is responsible for the actions of its organs, instrumentalities, and officials, regardless of their separate legal personality under domestic law.<sup>213</sup> The term State organ includes ‘all the individual or collective entities which constitute the State’s organisation and act on its behalf’.<sup>214</sup> Furthermore, under Article 4 of the ASR, State organs encompass not only the central government’s entities but also include government organs of any classification, exercising any function.<sup>215</sup> To qualify as a *de jure* State organ, the PMSC must be recognised by the domestic law of the State and be incorporated as a State organ either through legislation or contract.<sup>216</sup> There is no open-source research available which suggests the Wagner Group was formally incorporated into either FACA or FAMA through their domestic law. To determine if the Wagner Group qualifies as a *de facto* State organ, it is necessary to examine the relationship between the two States and the Group. Depending on the test applied to assess the notion of control (either ‘effective control’<sup>217</sup> or ‘overall control’<sup>218</sup>) it is unlikely that the Wagner Group would be considered as a *de facto* State organ for either the CAR or Mali. While at times accompanied by FACA and FAMA forces, the Group trains in Russia and provides its personnel with resources and arms.<sup>219</sup> Moreover, the Group appears to have enjoyed considerable autonomy in conducting its operations in both the CAR and Mali.<sup>220</sup> Additionally, given the Wagner Group’s independent sources of funding across its various operations in Africa, which ranges from direct payment to resource concessions, it may prove difficult to qualify the Wagner Group as a State organ.<sup>221</sup>

As per the ASR commentary, Article 5 is designed to encompass the actions of private entities that assume certain aspects of governmental authority on behalf of State organs, provided that

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<sup>212</sup> ‘ASR’ (n 88) art. 8.

<sup>213</sup> ‘ASR Commentaries’ (n 88) 39.

<sup>214</sup> *ibid* 40.

<sup>215</sup> *ibid*.

<sup>216</sup> Lindsey Cameron and Vincent Chetail, *Privatizing War* (Cambridge University Press 2013) 138.

<sup>217</sup> (n 201) para 115.

<sup>218</sup> Maddocks (n 185).

<sup>219</sup> András Rácz, ‘Band of Brothers: The Wagner Group and the Russian State’ (*Center for Strategic & International Studies*, 21 September 2020) <<https://www.csis.org/blogs/post-soviet-post/band-brothers-wagner-group-and-russian-state>> accessed 19 June 2023. The main base of the Wagner Group is located in Molkino, Russia. It is operated jointly with the Russian Special Forces (the GRU).

<sup>220</sup> ‘Wagner Group Operations in Africa’ (n 110).

<sup>221</sup> William Rampe, ‘What Is Russia’s Wagner Group Doing in Africa?’ (*Council on Foreign Relations*, May 2023) <<https://www.cfr.org/in-brief/what-russias-wagner-group-doing-africa>>.

the entity is authorised by the domestic law of the State to carry out these functions.<sup>222</sup> If a State, in accordance with its domestic law, authorises a private entity to perform public functions on its behalf, the conduct of the entity is considered attributable to the State if it acted in that capacity.<sup>223</sup> The purpose of this is to prevent a State from evading responsibility by delegating or privatising functions that were traditionally performed by State organs.<sup>224</sup> In situations where the Wagner Group acted on behalf of the CAR government and the Malian government, its conduct could be attributable to the States if the Group was authorised to perform such conduct.

The second avenue of State responsibility does not directly attribute the misconduct of PMSCs to the State, nor does it require State involvement in the misconduct.<sup>225</sup> Instead, this form of responsibility arises when a State neglects to establish appropriate measures to regulate PMSCs and prevent them from engaging in harmful conduct.<sup>226</sup> Under this approach, the contracting State, host State, or home State of a rogue PMSC can be held responsible, but only if there is a pre-existing obligation for the respective State to address the misconduct in question.<sup>227</sup> For instance, in the CAR and Mali and the Wagner Group, if there is evidence demonstrating a State's knowledge of, or complicity in, the actions of these PMSCs that violate international laws, the State could be held accountable. This accountability would stem not from the State's direct involvement but from its failure to fulfil its obligations under international law to prevent, investigate, or penalise the misconduct of the PMSCs it employs, hosts, or is affiliated with.

To this day, however, no court has held a State responsible solely for its failure to take affirmative action to ensure compliance with IHL by private actors.<sup>228</sup> In the *Nicaragua case*, the United States was found to have violated Common Article 1 of the Geneva Conventions because of its 'encouragement' of the rebel *contras* to act in violation of Common Article 3.<sup>229</sup> Due to substantial evidence demonstrating active United States support for the *contras'* illegal activities, the Court did not find it necessary to investigate whether a State's failure to

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<sup>222</sup> 'ASR Commentaries' (n 88) 43.

<sup>223</sup> Maddocks (n 185).

<sup>224</sup> 'ASR Commentaries' (n 88) 42.

<sup>225</sup> Tonkin (n 31) 130.

<sup>226</sup> *ibid* 136.

<sup>227</sup> *ibid* 261.

<sup>228</sup> *ibid* 130.

<sup>229</sup> (n 201) paras 254–256.

proactively prevent or penalise such activities could breach Common Article 1.<sup>230</sup> However, the Court also did not completely dismiss the possibility of attributing State responsibility in such cases.<sup>231</sup> This interpretation carries significant legal weight in principle. Consequently, States like the CAR and Mali and those engaging the services of the Wagner Group are legally obliged to take affirmative actions to guarantee the adherence of PMSCs to international legal standards, ensuring accountability and upholding the principles of IHL and HRL.

## 4.2. Criminal Responsibility and Prosecution of PMSC Personnel for War Crimes and Crimes against Humanity

### 4.2.1. Individual Criminal Responsibility

The principle of individual criminal responsibility for serious violations of IHL extends universally, encompassing all individuals regardless of their categorisation, in both NIACs and IACs. As serious violations of IHL are subject to universal jurisdiction, any State has the authority to prosecute an individual of any nationality, regardless of where the offence was committed. Holding individuals criminally responsible is crucial in ensuring accountability for serious violations of IHL.<sup>232</sup>

The International Criminal Court (ICC) has jurisdiction over the most serious crimes of concern to the international community<sup>233</sup> however, its jurisdiction is limited to natural persons and does not extend to legal entities.<sup>234</sup> The articles of the Rome Statute apply exclusively to citizens of States Parties to the Rome Statute and crimes committed on the territory of a State Party.<sup>235</sup> When a State ratifies the Rome Statute, it consents to the jurisdiction of the ICC in relation to the crimes listed in the Statute.<sup>236</sup> The Preamble of the ICC Statute recalls that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes and thus strengthens the obligation of States to either judge or extradite PMSC personnel (*aut dedere aut iudicare*).<sup>237</sup> The classification of PMSCs, civilians, DPH, or members of the armed forces holds no relevance in the context of assigning criminal culpability

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<sup>230</sup> *ibid* para 15.

<sup>231</sup> *ibid*.

<sup>232</sup> Carsten Stahn, *A Critical Introduction to International Criminal Law* (Cambridge University Press 2019) 117.

<sup>233</sup> 'Rome Statute' (n 82) art. 25(3).

<sup>234</sup> *ibid* art. 25(1).

<sup>235</sup> *ibid* art. 12.

<sup>236</sup> *ibid* art. 12(1).

<sup>237</sup> *ibid* 1.

for offenses falling under the jurisdiction of the ICC.<sup>238</sup> Acts such as violence to life and person as well as against persons taking no active part in the hostilities, as delineated in the Geneva Conventions and further codified in Article 8(2)(c)(i) of the ICC Statute (in the case of a NIAC), can be equally committed by both the armed forces personnel and civilians.<sup>239</sup>

War crimes are serious violations of IHL that occur during an armed conflict.<sup>240</sup> For an act to be considered a war crime, it must be linked to the conflict, although the conflict need not be the direct cause of the crime.<sup>241</sup> According to Quirico, a ‘functional relationship’ arises when private entities partake in conflict-related duties.<sup>242</sup> Consequently, whenever a PMSC holds a connection, even if solely *de facto*, with a Party to the armed conflict, it may be assumed that a connection between the criminal conduct and the armed conflict exists.<sup>243</sup> Therefore, when examining crimes committed in the CAR or Mali, the first step is to determine whether they are linked to the existing armed conflict. For instance, in Moura, Mali, the crimes committed against civilians during the ‘cleaning out’ of ‘extremists’ in the area would likely be considered as war crimes due to the link between the existing armed conflict and the crimes committed.

When analysing the situations in the CAR or Mali, where deliberate attacks target innocent civilians as part of broader violent campaigns, it is crucial to assess whether these assaults could meet the criteria for crimes against humanity. Crimes against humanity encompass grave violations recognized as customary law and universally applicable. Unlike war crimes confined to battlefields, these atrocities can occur even in times of peace<sup>244</sup> and a crime against humanity is any act listed under Article 7(1) of the ICC Statute. To classify acts as crimes against humanity, a link must exist in which the individual committing the crimes is aware that the attack is linked to a widespread or systematic attack directed at the civilian population.<sup>245</sup> The ICC has jurisdiction in Mali and the CAR, meaning that individual members of the Wagner Group could be prosecuted either in Mali or the CAR, at an international forum such as the ICC, or in another State under the principle of universal jurisdiction.

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<sup>238</sup> *ibid* art. 25(2).

<sup>239</sup> Ottavio Quirico, ‘The Criminal Responsibility of PMSC Personnel under International Humanitarian Law’ in *War by Contract: Human Rights, Humanitarian Law and Private Contractors* (Oxford University Press 2011) 7.

<sup>240</sup> ‘Rome Statute’ (n 82) art. 8(2)(c).

<sup>241</sup> Carsten Stahn, *A Critical Introduction to International Criminal Law* (Cambridge University Press 2019) 81; See *Prosecutor v Tadić* (n 13) According to the ICTY Appeals Chamber, the conflict must have played a significant role in enabling the perpetrator to commit the crime.

<sup>242</sup> Quirico (n 239) 8.

<sup>243</sup> *ibid*.

<sup>244</sup> *Tadić* (n 2) paras 69–71.

<sup>245</sup> ‘Rome Statute’ (n 82) undefined 7.

#### 4.2.2. Command responsibility

The doctrine of command responsibility establishes that those who order or even allow crimes to take place may be held responsible. The concept of command responsibility, also known as superior responsibility, originates from IHL and is based on Article 1(1) of the 1899 Hague Regulations.<sup>246</sup> It was later codified in 1977 in Articles 86(2) and 87 of Protocol I and is now considered a customary norm that applies to all States.<sup>247</sup> Command responsibility is a form of liability used to hold military superiors accountable for the crimes committed by their subordinates.<sup>248</sup> Article 28 of the Rome Statute stipulates that military commanders can be held responsible for crimes committed by their subordinates if they fail to take measures to prevent or punish the commission of such crimes.<sup>249</sup> The Rome Statute refers to the term ‘forces’, which may suggest that the provision only applies to a State’s armed forces. However, it was established that a wide range of ‘fighters’ can be considered forces under the Statute.<sup>250</sup>

In the case of *Prosecutor v Bemba*,<sup>251</sup> a six-factor test was established by the ICC to determine command responsibility, which expands on the conditions set forth in Article 86(2) Protocol I: the crimes committed must fall within the jurisdiction of the Court; the accused must be a military commander or a person effectively acting as one;<sup>252</sup> the accused must be in effective command and control or in effective authority and control;<sup>253</sup> the accused must have known or should have known that the crimes were being committed or were about to be committed;<sup>254</sup> the accused must have failed to take all necessary and reasonable measures to prevent or punish the commission of such crimes;<sup>255</sup> and the crimes must have been committed by subordinates, and they must have been serious violations of IHL.

Commanders have a responsibility to take all necessary and reasonable steps to prevent their subordinates from planning and preparing potential crimes, to suppress the commission of such crimes, and to refer the matter to the appropriate authorities for investigation and

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<sup>246</sup> Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (adopted 18 October 1907; entry into force 26 January 1910).

<sup>247</sup> ‘ICRC CIHL Rules’ (n 28) r. 152.

<sup>248</sup> ‘Rome Statute’ (n 82) art. 28(a)(i).

<sup>249</sup> *ibid* art. 28.

<sup>250</sup> Linnea Kortfält, ‘Article 28(a): Structure of Forces - Commentary on the Law of the International Criminal Court’ (no date).

<sup>251</sup> *Situation in the Central African Republic in the case of the Prosecutor v Jean-Pierre Bemba Gombo* trial chamber (21 March 2016).

<sup>252</sup> *ibid* para 176.

<sup>253</sup> *ibid* paras 176–178.

<sup>254</sup> *ibid* para 179.

<sup>255</sup> *ibid*.



prosecution.<sup>256</sup> The measures required will depend on the commander's position in the hierarchy and the disciplinary powers available to them.<sup>257</sup> The commander is not expected to do the impossible, and what is necessary and reasonable must be assessed on a case-by-case basis. In the case of Wagner's violations of IHL in Mali and the CAR, commanders of the group could be held responsible under the doctrine of command responsibility if they knew or should have known about the crimes and failed to take action to prevent or punish them. The fact that the Wagner Group is a PMSC does not exempt its commanders from responsibility for war crimes committed by their subordinates.

#### 4.3. The Wagner Group's Possible Direct Responsibility for IHL and Human Rights Violations *qua* Company

While it is now recognised that States are no longer the sole subjects of contemporary international law,<sup>258</sup> there remains a lack of enforcement mechanisms available at international level for holding private entities accountable for human rights violations. While traditionally, responsibility for IHL and human rights violations has primarily been attributed to States and individual actors, the evolving landscape of today's conflict, characterised by the participation of PMSCs, necessitates an examination of their potential corporate responsibility. Similar to the Wagner Group, numerous PMSCs operate beyond the State in which they are domiciled, providing services in States where the rule of law may be weak or non-existent, resulting in limited oversight within the contracting States.<sup>259</sup> Furthermore, many States' domestic legislation lacks extraterritorial reach, making it difficult to hold PMSCs accountable for IHL human rights abuses perpetrated outside the States in which they are domiciled.<sup>260</sup>

Corporate entities, as well as their officers and officials, can be held accountable for their involvement in international crimes through national criminal proceedings and civil litigation.<sup>261</sup> Legal actions can be initiated against the company as a whole or against individual corporate officers, and these proceedings can be conducted in either the State where the

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<sup>256</sup> 'Rome Statute' (n 82) art. 28(a)(ii).

<sup>257</sup> *ibid* art. 28(b).

<sup>258</sup> Wolfgang Kaleck and Miriam Saage-Maasz, 'Corporate Accountability for Human Rights Violations Amounting to International Crimes: The Status Quo and Its Challenges' (2010) 8 *Journal of International Criminal Justice* 699, 714.

<sup>259</sup> Stuart Wallace, 'Private Security Companies and Human Rights: Are Non-Judicial Remedies Effective?' (no date) 35 *BUILJ*, 75.

<sup>260</sup> *ibid* 77.

<sup>261</sup> Kaleck and Saage-Maasz (n 258) 714.

violations occurred (host State) or the State where the company is domiciled (home State).<sup>262</sup> Meaning that if a company or its officers are involved in crimes such as human rights violations, they can be prosecuted and sued in a court of law.<sup>263</sup> Legal actions carried out in the vicinity of the crime can potentially have a greater impact on the social and political discussions required to address IHL and human rights violations effectively.<sup>264</sup> However, there is a higher likelihood of encountering systemic issues within the judicial system, such as corruption, legal inadequacies, or direct political interference, in the host State where the violations occurred, as opposed to the home State of the company involved.<sup>265</sup> These factors can pose challenges to the accountability and justice-seeking process. Therefore, striking a balance between the appropriate forum for proceedings and the potential challenges faced is crucial in holding corporate actors accountable for their involvement in international crimes.

#### 4.3.1. Holding the Wagner Group Accountable for Human Rights Violations on a Domestic Level

The involvement of the Wagner Group in Mali and alleged violations of human rights have raised serious concerns about the effectiveness of the State institution responsible for ensuring public safety with international HRL standards and domestic law. The Annual 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 People to Self-Determination,<sup>266</sup> found that Mali has several laws which address ‘private security and guard companies’ and ‘private security/guard services/activities’.<sup>267</sup> The legislation in Mali prohibits private actors from engaging in certain activities relating to the police and armed forces.<sup>268</sup> The Working Group also found that violations of laws pertaining to private actors are subject to administrative sanctions, including imprisonment.<sup>269</sup> However, the Working Group noted that the laws reviewed did not contain provisions for compliance with international HRL or IHL. There were also no guarantees

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<sup>262</sup> *ibid.*

<sup>263</sup> *ibid* 715.

<sup>264</sup> *ibid.*

<sup>265</sup> *ibid.*

<sup>266</sup> Human Rights Council, ‘Annual 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’ (30 June 2014).

<sup>267</sup> Decree No. 2011-0589/MSIPC-SG of 24 February 2011 on the modalities of application of the regulation of PSCs (“Decree No. 2011-0589”), Decree No. 96-00621/MATS/SG on the use of uniforms by private companies (“Decree No. 96-00621”), Decree No. 96-0566/MFC-MATS on the licensing fee of private companies (“Decree No. 96-0566”), Decree No. 96-064/P-RM on the activities of private companies (“Decree No. 96-064”), Decree No. 96-020 on private companies in charge of surveillance, guarding, transport of funds and protection of persons (Decree No. 96-020),

<sup>268</sup> Decree No 96-020.

<sup>269</sup> *ibid* at undefined 24.

providing for any effective remedy to the victims of private actors.<sup>270</sup> The regulatory gaps in Mali's legislation seriously undermine the rule of law and the effective enforcement of international HRL and national laws for public safety.<sup>271</sup> There are several gaps that exist, including the absence of regulations on DPH by private actors and their personnel, the limited application of relevant laws beyond national borders, the transnational character of private security and military services, and the high probability of PMSC personnel using force and participating in hostilities.<sup>272</sup>

During a visit to the CAR in 2016, the Working Group assessed the situation of private contractors in the country. Although the Working Group received confirmation that there were existing legislative frameworks on 'PSCs', it noted the lack of strong and effective regulations to address possible violations of HRL committed by these companies.<sup>273</sup> Unfortunately, open-source research does not provide much information on existing frameworks on PSCs, PMCs or PMSCs in the CAR or the actions taken to address the lack of regulations. In 2021, the Working Group sent communications to the Permanent Mission of the CAR to the UN Offices and other International Organisations in Geneva and Vienna. In these communications, the CAR government was requested to provide information on the actions taken to ensure that PMSCs operating within its territory and/or under its jurisdiction adhere to an enhanced level of human rights due diligence.<sup>274</sup> This included measures to identify, prevent, mitigate and report on their human rights impacts throughout their operations in conflict-affected areas in accordance with the UN Guiding Principles on Business and Human Rights.<sup>275</sup> The CAR Mission's response however, was limited to referencing the Montreux Document.<sup>276</sup>

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<sup>270</sup> Human Rights Council (n 266) 16.

<sup>271</sup> *ibid* paras 22–23.

<sup>272</sup> *ibid* 16.

<sup>273</sup> United Nations General Assembly, '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 on Its Mission to the CAR' (12 September 2017) para 83.

<sup>274</sup> Letter from Ambassade de la République Centrafricaine auprès de la Confédération Helvétique, 'Information Received Concerning the Recruitment and Use of Private Military and Security Personnel in the Context of the Ongoing Hostilities in the Central African Republic in Support of the Central African Army Forces.' (26 March 2021) para 4.

<sup>275</sup> *ibid*.

<sup>276</sup> *ibid*.

#### 4.3.2. Holding the Wagner Group Accountable for Human Rights Violation on an International Level

States are the primary subjects of international law at the international level, and none of the complaint procedures related to human rights within the UN system have the mandate to oversee the actions of corporations.<sup>277</sup> Likewise, regional human rights courts lack jurisdiction over corporate entities or individual corporate actors.<sup>278</sup> As previously mentioned, the ICC does not possess jurisdiction over legal entities. Nonetheless, the Court can address corporate involvement in international crimes by examining the actions of individuals acting on the company's behalf.<sup>279</sup> Corporate officials, who are natural persons, can be investigated and prosecuted by the ICC, particularly if they are nationals of a State party to the Rome Statute.<sup>280</sup> The ICC can hold individual corporate officers accountable for their actions when their involvement is part of a broader context of international crimes.<sup>281</sup> Under the Rome Statute, direct participation is not necessary to establish the criminal liability of a corporate officer and the responsibility can be based on individual criminal responsibility<sup>282</sup> or command responsibility.<sup>283</sup> The ICC can only exercise its jurisdiction in situations where the crimes have been referred to the Prosecutor by a State Party<sup>284</sup> or the Security Council,<sup>285</sup> or when the Prosecutor has initiated an investigation approved by the Pre-Trial Chamber.<sup>286</sup>

An alternative mechanism aiming to create a different approach to addressing the human rights responsibilities of corporations includes the open-ended IGWG on transnational corporations and other business enterprises with respect to human rights. The IGWG was created by the Human Rights Council and established through resolution 26/9 in 2014.<sup>287</sup> The mandate of the IGWG is to develop an international legally binding instrument that regulates the activities of transnational corporations and other business enterprises in accordance with international HRL.<sup>288</sup> The proposed binding treaty would require transnational corporations and other

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<sup>277</sup> Kaleck and Saage-Maasz (n 258) 710.

<sup>278</sup> *ibid.*

<sup>279</sup> David Scheffer, 'Corporate Liability under the Rome Statute' (2016) 57 Harvard International Law Journal.

<sup>280</sup> 'Rome Statute' (n 82) art. 25(1).

<sup>281</sup> Scheffer (n 279).

<sup>282</sup> 'Rome Statute' (n 82) art. 25.

<sup>283</sup> *ibid* art. 28.

<sup>284</sup> *ibid* art. 13(a).

<sup>285</sup> *ibid* art. 13(b).

<sup>286</sup> *ibid* art. 13(c).

<sup>287</sup> 26/9 *Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights* Human Rights Council Rep A/HRC/RES/26/9 (2014).

<sup>288</sup> *ibid* para 1.

business enterprises to take action ‘to identify, prevent, and mitigate the human rights-related risks of their activities and business relationships in conflict-affected areas’.<sup>289</sup> Article 16(3) of the draft legally binding instrument addresses the issue of business activities in conflict-affected areas. It emphasises the need for special attention to be given to identifying, preventing, and mitigating human rights-related risks in these areas, as well as assessing and addressing the heightened risks of abuses.<sup>290</sup> Unfortunately, due to a lack of consensus, and limited participation and scope, there is no clear timeline for when a final agreement will be reached.

## CONCLUSION

The growing participation of PMSCs in armed conflicts, particularly NIACs, gives rise to significant legal and ethical concerns. The Wagner Group's operations in the CAR and Mali sheds light on the complexities of the privatisation of warfare and the challenges of holding PMSCs, such as Wagner, accountable under IHL and HRL.

The difficulties in regulating PMSCs originate from the lack of clarity and alignment between international and national laws, government regulations, and industry self-regulation. International law does not provide a clear classification of PMSCs (in addition to PMCs and PSCs) or the scope of their operations within the existing legal framework. Similarly, many States have inadequate regulatory frameworks and lack clear and consistent definitions of PMSCs. As a result, PMSCs frequently operate inside a grey area, which raises concerns regarding accountability and oversight. Wagner Group's involvement in the armed conflicts in the CAR and Mali demonstrates the intensity and complexity of these conflicts, in which numerous armed groups operate, frequently blurring the distinction between State and non-State actors. Despite the absence of a legal framework for PMSCs, IHL's fundamental rules and principles continue to apply to all parties to armed conflicts, including PMSCs. However, the continued alleged violations of IHL and HRL by the Wagner Group emphasise the need to address gaps in accountability mechanisms, particularly in the context of evolving conflict dynamics.

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<sup>289</sup> *ibid* at Preamble.

<sup>290</sup> ‘Updated Draft Legally Binding Instrument (Clean Version) to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises’ (July 2023) art. 16(3).

Examining the Law on State Responsibility reveals that while various methods of attribution are possible, the foundational element in most cases is the evidence which establishes the connection between the State and the group. The circumstances under which Russia could bear State responsibility and whether individual fighters could be held accountable for war crimes points to the challenges of assigning culpability pertaining to PMSC operations. In the specific context of the CAR and Mali, as contracting or host States, they retain responsibility for ensuring that standards of IHL and HRL are met. However, it remains difficult to attribute the Wagner Group's conduct to State entities based on either *de jure* or *de facto* criteria. The lack of clear evidence suggesting the formal incorporation of the Wagner Group into State entities and its considerable autonomy in operations complicates the attribution process. Furthermore, assessing whether the Wagner Group, acting on behalf of the CAR and Malian governments, qualifies as a State organ under Article 5 requires careful scrutiny of the entity's authority and actions.

Addressing the challenges posed by PMSCs requires comprehensive strategies. One key approach involves the oversight and regulation of PMSCs, a crucial intersection between international law initiatives and domestic laws. To establish a robust foundation for PMSC regulation, it is imperative to clarify the scope of national legislation. This requires precise definitions of PMSCs, explicit outlines of permissible services, clear identification of prohibited activities, and in-depth discussions about the applicability of the law. Ambiguities in PMSC definitions and the differentiation between PMSC functions, law enforcement agencies, and military forces can create confusion. Such confusion might blur lines of authority and responsibility, potentially allowing PMSCs to use coercive force unlawfully.

Moreover, enhancing domestic oversight across multiple States can contribute to closing existing regulatory gaps. Establishing an international legal framework that clearly defines acceptable contexts and functions for PMSC engagement can be accomplished through various means. This includes negotiating a UN convention, increasing the number of States signatory to soft-law instruments like the Montreux Document, or refining national regulatory frameworks via domestic legislation.<sup>291</sup> Self-regulatory systems alone are insufficient; effective regulation necessitates a binding international instrument that also upholds the rights of victims, reparations, and the pursuit of justice. These initiatives represent crucial strides towards establishing a coherent, thorough, and globally synchronised approach to regulate

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<sup>291</sup> Cameron and Chetail (n 216) 677.

PMSC activities. Without further development of international law regarding PMSCs, States like Russia, the CAR and Mali are likely to escape accountability and promote the use of PMSCs either for tactical advantages or the pursuit of strategic goals abroad.<sup>292</sup>

The use of PMSCs is unlikely to diminish in the foreseeable future. In fact, as the complexities of modern conflicts increase and the demand for specialised military services rises, the utilisation of PMSCs is expected to grow. This growth is driven by factors such as the need for rapid response capabilities, the desire for flexibility in military operations, and the outsourcing of certain military functions to reduce costs. As the landscape of armed conflicts continues to evolve, it is essential for legal frameworks to adapt, ensuring that accountability is not just a theoretical concept but a tangible reality, especially concerning the actions of PMSCs like the Wagner Group. Achieving a framework where violations of IHL and HRL are met with unwavering accountability necessitates persistent scrutiny, global cooperation, and the reinforcement of legal mechanisms.

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<sup>292</sup> Michael A Rizzotti, 'Russian Mercenaries, State Responsibility, and Conflict in Syria: Examining the Wagner Group under International Law' (2019) 37 WILJ, 614.

## Bibliography

### Legislation

Civil Code of the Russian Federation Part One No 51-FZ (Russia) 1994.

Constitution of the Russian Federation (Russia) 1993.

Decree No 96-020 (Mali).

Decree No 96-0566/MFC-MATS (Mali).

Decree No 96-00621/MATS/SG (Mali).

Decree No 96/P-RM (Mali).

Decree No 2011-0589/MSIPC-SG (Mali)

Federal Law N 2487-I on Private Detective and Security Activity in the Russian Federation (Russia) 1992

Federal Law No 129-FZ on the State Registration of Legal Entities and Individual Businessmen (Russia) 2001

The Criminal Code of the Russian Federation 63-FZ (Russia) 1996

### International Instruments

Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, 75 UNTS 31 (adopted 12 August 1949, entered into force 7 December 1978)

Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (adopted 18 October 1907; entry into force 26 January 1910)

International Covenant on Civil and Political Rights (23 March 1976) vol UNTS 999

Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict' (17 September 2008)

Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977



Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977

Rome Statute of the International Criminal Court vol A/CONF.183/9 adopted 17 July 1998, entered into force on 1 July 2002.

#### Case Law

*Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States of America)* [1986] ICJ Rep 14

*Prosecutor v Jean-Pierre Bemba Gombo* (Trial Judgement) ICC-01/05-01/08, International Criminal Court, 26 November 2009

*Prosecutor v Jean-Pierre Bemba Gombo (Pre-Trial Decision)* ICC-01/05-01/08-424, International Criminal Court, 15 June 2009

*Prosecutor v Tadic* (Appeals Chamber) IT-94-1-A, International Criminal Tribunal for the Former Yugoslavia, 15 July 1999

*Prosecutor v Duško Tadić* (Opinion and Judgment) IT-94-1-T, International Criminal Tribunal for the Former Yugoslavia, 7 May 1997

*The Prosecutor v Jean-Paul Akayesu* (Trial Judgement), ICTR-96-4-T, International Criminal Tribunal for Rwanda, 2 September 1998

#### Reports

Human Rights Council, ‘26/9 Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights’ (2014) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/082/52/PDF/G1408252.pdf?OpenElement> accessed 20 September 2023

Resolution 36/11 adopted by the Human Rights Council on 28 September 2017 A/HRC/RES/36/11 (2017).

Human Rights Council, ‘Annual 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’ (30 June 2014).

International Court of Justice, ‘Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion’ (ICJ Reports, 8 July 1996).

International Criminal Court, ‘Situation in Mali: Article 53(1) Report’ (16 January 2013) [https://www.icc-cpi.int/sites/default/files/itemsDocuments/SASMaliArticle53\\_1PublicReportENG16Jan2013.pdf](https://www.icc-cpi.int/sites/default/files/itemsDocuments/SASMaliArticle53_1PublicReportENG16Jan2013.pdf) accessed 10 September 2023.

Marcucci G, ‘Central African Republic: Sectarian and Inter-Communal Violence Continues’ (The War Report 2018, January 2019) <https://www.geneva-academy.ch/joomlatools-files/docman-files/Central%20African%20Republic%20Sectarian%20And%20Inter-Communal%20Violence%20Continues.pdf> accessed 5 September 2023.

OHCHR, ‘Report on the Events of Moura 27 to 31 March 2022’ (May 2023) <https://www.ohchr.org/sites/default/files/documents/countries/mali/20230512-Moura-Report.pdf> accessed 5 September 2023.

Østensen ÅG and Bukkvoll T, ‘Russian Use of Private Military and Security Companies – the Implications for European and Norwegian Security’ (FFI-Rapport, 11 September 2018), FFI-Rapport.

Serwat Ladd, Nsaibia Heni, and Nichita Gurcov, ‘Moving out of the Shadows: Shifts in Wagner Group Operations Around the World’ (ACLED, 2023) [https://acleddata.com/acleddatanew/wp-content/uploads/2023/08/ACLED\\_Report\\_Shifts-in-Wagner-Group-Operations-Around-the-World\\_2023.pdf](https://acleddata.com/acleddatanew/wp-content/uploads/2023/08/ACLED_Report_Shifts-in-Wagner-Group-Operations-Around-the-World_2023.pdf) accessed 29 August 2023.

United Nations General Assembly, ‘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 on Its Mission to the CAR’ (12 September 2017).

United Nations Security Council, ‘Midterm Report of the Panel of Experts on the Central African Republic Extended Pursuant to Security Council Resolution 2399 (2018)’ (23 July 2018).

United Nations Security Council, ‘Report of the Secretary-General: Central African Republic’ (16 June 2022).

United Nations Security Council, ‘Final Report of the Panel of Experts on the CAR Extended Pursuant to Security Council Resolution 2399 (2018)’ (14 December 2018).

United Nations Security Council, ‘Final Report of the Panel of Experts on the CAR Extended Pursuant to Security Council Resolution 2536 (2020)’ (25 June 2021).

United Nations Security Council, ‘Final Report of the Panel of Experts on Mali Established Pursuant to Security Council Resolution 2374 (2017)’ (3 August 2023).

Vierucci L, ‘Private Military and Security Companies in Non-International Armed Conflicts: Ius Ad Bellum and Ius in Bello Issues’ (AEL, EUI Working Paper, 2009), AEL.

‘Report of the Detailed Findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestine Territory’ (18 March 2019).

‘Information from the Russian Federation in Response to the Joint Enquiry of the Special Procedures of the Human Rights Council on the Alleged Activities of Russian PMSCs in the Central African Republic’ (24 March 2021) <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26305> accessed 15 September 2023.

International Committee of the Red Cross, ‘Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts’ (February 2008) [https://www.icrc.org/sites/default/files/topic/file\\_plus\\_list/0923-increasing\\_respect\\_for\\_international\\_humanitarian\\_law\\_in\\_non-international\\_armed\\_conflicts.pdf](https://www.icrc.org/sites/default/files/topic/file_plus_list/0923-increasing_respect_for_international_humanitarian_law_in_non-international_armed_conflicts.pdf) accessed 15 August 2023.

International Committee of the Red Cross, ‘What is the Difference between IHL and Human Rights Law?’ (2004) <https://shop.icrc.org/international-humanitarian-law-answers-to-your-questions-print-fr.html> accessed 20 August 2023.

‘Midterm Report of the Panel of Experts on Mali’ (S/2023/138, 22 February 2023), S/2023/138.

‘Human Rights Quarterly Brief on the Central African Republic’ (2022) [https://minusca.unmissions.org/sites/default/files/2023-01-30\\_hrd\\_quarterly\\_report\\_october\\_-\\_december\\_2022\\_final.pdf](https://minusca.unmissions.org/sites/default/files/2023-01-30_hrd_quarterly_report_october_-_december_2022_final.pdf) accessed 15 September 2023.

MINUSCA and OHCHR, ‘Public Report on Violations of Human Rights and International Humanitarian Law in the Central African Republic during the Electoral Period’ (July 2020–June 2021).

‘Architects of Terror: The Wagner Group’s Blueprint for State Capture in the Central African Republic’ (The Sentry June 2023) <https://thesentry.org/wp->

<content/uploads/2023/06/ArchitectsTerror-TheSentry-June2023.pdf> accessed 20 September 2023.

‘General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’ (26 May 2004).

OHCHR, ‘Rapport D’enquete Sur L’attaque de Boyo, Prefecture de La Ouaka: Du 6 Au 13 Décembre 2021’ (July 2022) <https://www.ohchr.org/sites/default/files/2022-07/rapport-enquete-attaque-Boyo.pdf> accessed 24 September 2023.

#### Books

Cameron L and Chetail V, *Privatizing War* (Cambridge University Press 2013).

McFate S, *The Modern Mercenary: Private Armies and What They Mean for World Order* (Oxford University Press 2014).

Melzer N, *Direct Participation in Hostilities under International Humanitarian Law* (0990/002, ICRC 2009).

Quirico O, ‘The Criminal Responsibility of PMSC Personnel under International Humanitarian Law’ in *War by Contract: Human Rights, Humanitarian Law and Private Contractors* (Oxford University Press 2011).

Stahn C, *A Critical Introduction to International Criminal Law* (Cambridge University Press 2019).

Tonkin H, *State Control over Military and Security Companies in Armed Conflict* (Cambridge University Press 2011).

#### Journal Articles

Faulkner C, ‘Undermining Democracy and Exploiting Clients: The Wagner Group’s Nefarious Activities in Africa’ (2022) 15 CTC Sentinel.

Kaleck W and Saage-Maasz M, ‘Corporate Accountability for Human Rights Violations Amounting to International Crimes: The Status Quo and Its Challenges’ (2010) 8 *Journal of International Criminal Justice* 699.

Marten K, ‘Russia’s Use of Semi-State Security Forces: The Case of the Wagner Group’ (2019) 35 *Routledge* 181.

Østensen ÅG, 'In the Business of Peace: The Political Influence of Private Military and Security Companies on UN Peacekeeping' (2013) 20 *International Peacekeeping* 33.

Østensen ÅG and Bukkvoll T, 'Private Military Companies – Russian Great Power Politics on the Cheap?' (2021) 33 *Taylor & Francis* 130.

Rizzotti MA, 'Russian Mercenaries, State Responsibility, and Conflict in Syria: Examining the Wagner Group under International Law' (2019) 37 *WILJ*.

Scheffer D, 'Corporate Liability under the Rome Statute' (2016) 57 *Harvard International Law Journal*.

Singer PW, 'Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security' (2001) 26 *The MIT Press* 186.

Sukhankin S, 'War, Business and "Hybrid" Warfare: The Case of the Wagner Private Military Company (Part One)' (2018) 15 *EDM*.

Wallace S, 'Private Security Companies and Human Rights: Are Non-Judicial Remedies Effective?' (no date) 35 *BUILJ*.

#### Websites

Afriqye J, 'Mali-Russia: Bamako to Sign Contract with Wagner Group' (the africa report, 17 September 2021) <https://www.theafricareport.com/127421/mali-russia-bamako-to-sign-contract-with-wagner-group/> accessed 18 August 2023 .

Ambassade de la République Centrafricaine auprès de la Confédération Helvétique, 'Information Received Concerning the Recruitment and Use of Private Military and Security Personnel in the Context of the Ongoing Hostilities in the Central African Republic in Support of the Central African Army Forces.' (26 March 2021).

Doxsee C and Thompson J, 'Massacres, Executions, and Falsified Graves: The Wagner Group's Mounting Humanitarian Cost in Mali' (CSIS, 11 May 2022) <https://www.csis.org/analysis/massacres-executions-and-falsified-graves-wagner-groups-mounting-humanitarian-cost-mali> accessed 20 August 2023.

Irish J and Lewis D, 'Deal Allowing Russian Mercenaries into Mali is Close - Sources' (13 September 2021) <https://www.reuters.com/world/africa/exclusive-deal-allowing-russian-mercenaries-into-mali-is-close-sources-2021-09-13/> accessed 20 August 2023.

King I, 'How France Failed Mali: The End of Operation Barkhane' (HIR, 30 January 2023) <https://hir.harvard.edu/how-france-failed-mali-the-end-of-operation-barkhane/> accessed 23 August 2023.

Kortfält L, 'Article 28(a): Structure of Forces - Commentary on the Law of the International Criminal Court' (no date).

Lavrov S, 'Foreign Minister Sergey Lavrov's Interview with RT Television' (Television, 26 June 2023), Television.

Maddocks J, 'Russia, the Wagner Group and the Issue of Attribution' (Articles of War, 28 April 2021) <https://lieber.westpoint.edu/russia-wagner-group-attribution/> accessed 20 September 2023.

Moody J, 'How Rwanda Became Africa's Policeman' (Foreign Policy, 21 November 2022) <https://foreignpolicy.com/2022/11/21/how-rwanda-became-africas-policeman/> accessed 18 September 2023.

Nichols M, 'Lavrov Says Mali Asked Private Russian Military Company for Help' (Reuters, 26 September 2021) <https://www.reuters.com/world/africa/mali-asked-private-russian-military-firm-help-against-insurgents-ifx-2021-09-25/> accessed 20 August 2023.

Nkosi C-RMS, 'Revised Second Draft Instrument on an International Regulatory Framework on the Regulation, Monitoring of and Oversight over the Activities of Private Military and Security Companies' (10 March 2023).

Picco E, 'Ten Years After the Coup, Is the Central African Republic Facing Another Major Crisis?' (International Crisis Group, 22 March 2023) <https://www.crisisgroup.org/africa/central-africa/central-african-republic/dix-ans-apres-le-coup-detat-la-republique> accessed 23 August 2023.

Ráczy A, 'Band of Brothers: The Wagner Group and the Russian State' (CSIS, 21 September 2020) <https://www.csis.org/blogs/post-soviet-post/band-brothers-wagner-group-and-russian-state> accessed 19 June 2023.

Rampe W, 'What Is Russia's Wagner Group Doing in Africa?' (Council on Foreign Relations, May 2023) <https://www.cfr.org/in-brief/what-russias-wagner-group-doing-africa> accessed 19 June 2023.

Sysoev G, 'Putin Supported the Idea of Creating Private Military Companies in Russia' (РИА Новости, 11 April 2012), РИА Новости <https://ria.ru/20120411/623227984.html> accessed 15 June 2023.

Thompson J, 'Examining Extremism: Islamic State in the Greater Sahara' (CSIS, 22 July 2021) <https://www.csis.org/blogs/examining-extremism/examining-extremism-islamic-state-greater-sahara> accessed 20 July 2023.

Thompson J, Doxsee C, and Bermudez JS, 'Tracking the Arrival of Russia's Wagner Group in Mali' (CSIS, 2 September 2022) <https://www.csis.org/analysis/tracking-arrival-russias-wagner-group-mali> accessed 20 July 2023.

Zgirovskaya Ekaterina and Dergachev V, 'Russian Mercenaries in the Battles for Palmyra' (Газета.Ru, 24 March 2016) [https://www.gazeta.ru/politics/2016/03/22\\_a\\_8137565.shtml](https://www.gazeta.ru/politics/2016/03/22_a_8137565.shtml) accessed 23 July 2023.

'Briefing by Foreign Ministry Spokeswoman Maria Zakharova' (The Ministry of Foreign Affairs of the Russian Federation, 28 June 2023) [https://mid.ru/en/foreign\\_policy/news/1894293/](https://mid.ru/en/foreign_policy/news/1894293/) accessed 24 July 2023.

'CAR: Russian Wagner Group Harassing and Intimidating Civilians – UN Experts' (United Nations OHCHR, 27 October 2021) <https://www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts> accessed 24 July 2023.

'CAR Special Criminal Court Now Fully Operational' (MINUSCA, 9 June 2021) <https://minusca.unmissions.org/en/car-special-criminal-court-scc-now-fully-operational>.

'Central African Republic: Abuses by Russia-Linked Forces' (3 May 2022) <https://www.hrw.org/news/2022/05/03/central-african-republic-abuses-russia-linked-forces> accessed 19 August 2023.

'Commentary on the Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field' (ICRC 2020).

'Commentary on the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)' (ICRC 1987).

International Law Commission, 'Draft Articles on Responsibility of States for Internationally Wrongful Acts' (first published 2001).

International Law Commission, ‘Draft Articles on the Responsibility of States for Internationally Wrongful Acts, with Commentaries’ (A/56/10, 2001).

‘En Centrafrique, Des Victimes Des Exactions Russes Brisent La Loi Du Silence’ (RFI, 3 May 2021) <https://www.rfi.fr/fr/afrique/20210503-en-centrafrique-des-victimes-des-exactions-russes-brisent-la-loi-du-silence> accessed 3 September 2023.

‘International Humanitarian Law Databases’ (IHL Databases, no date) <https://ihl-databases.icrc.org/en/customary-ihl/v1>.

‘Kremlin Blocks the Bill Legalizing Russian Private Military Companies’ (UAWire, 28 March 2018) <https://uawire.org/russia-will-not-legalize-mercenaries> accessed 18 July 2023.

‘Mali: Anti-Jihadist Success or Massacre of Civilians, What Happened in Moura?’ (TF1 INFO, 6 April 2022) <https://www.tf1info.fr/international/afrique-mali-succes-antijihadiste-contre-al-qaida-ou-massacre-de-civils-par-la-junte-et-wagner-que-s-est-il-passe-a-moura-2215782.html> accessed 7 September 2023

‘Mali Denies Deployment of Russian Mercenaries from Wagner Group’ (France 24, 25 December 2021) <https://www.france24.com/en/africa/20211225-mali-denies-deployment-of-russian-mercenaries-from-wagner-group> accessed 5 September 2023.

‘Mali Denies Using Russia’s Wagner Mercenaries’ (Deutsche Welle, 25 December 2021) <https://www.dw.com/en/mali-denies-using-russias-wagner-mercenaries/a-60254715> accessed 5 September 2023.

‘Mali: Massacre by Army and Foreign Soldiers’ (Human Rights Watch, 5 April 2022) <https://www.hrw.org/news/2022/04/05/mali-massacre-army-foreign-soldiers> accessed 7 September 2023.

‘Mali: Several Non-International Armed Conflicts with Various Insurgent Groups’ (Geneva Academy, 31 January 2019), Geneva Academy <https://www.geneva-academy.ch/news/detail/204-mali-several-non-international-armed-conflicts-with-various-insurgent-groups> accessed 5 September 2023.

‘Media: Wagner Group Commander Becomes CEO of Putin’s Friend’s Catering Business’ (UAWire, 16 November 2017) <https://uawire.org/wagner-group-commander-becomes-ceo-of-putin-s-friend-s-catering-business> accessed 10 August 2023.



‘Meeting with Defence Ministry Personnel’ (President of Russia, 27 June 2023) <http://www.en.kremlin.ru/events/president/news/71535> accessed 10 August 2023.

‘Non-International Armed Conflict in Mali’ (RULAC Geneva Academy, n.d.) <https://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-mali#collapse2accord> accessed 4 September 2023.

‘Non-International Armed Conflicts in the Central African Republic’ (RULAC Geneva Academy, n.d.) <https://www.rulac.org/browse/conflicts/non-international-armed-conflict-in-the-central-african-republic#collapse1accord> accessed 1 September 2023.

‘Status of Ratification’ (United Nations OHCHR, no date) <https://indicators.ohchr.org/> accessed 5 August 2023.

‘The Head of the CIA Announced the Death of “a Couple of Hundred” Russians during the February Coalition Airstrike in Syria” (NewsRu, 12 April 2018) <https://www.newsru.com/world/12apr2018/pompeosays.html> accessed 15 August 2023.

‘Today’s Armed Conflict’ (Geneva Academy, no date) <https://geneva-academy.ch/galleries/today-s-armed-conflicts> accessed 7 July 2023.

‘UN Treaty Body Database’ (UN Human Rights Treaty Bodies, no date) [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=107&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=107&Lang=EN) accessed 15 August 2023.

‘Updated Draft Legally Binding Instrument (Clean Version) to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises’ (July 2023).

‘Wagner Forces Return to CAR before Divisive Referendum’ (Deutsche Welle, 19 July 2023) <https://www.dw.com/en/russias-wagner-forces-return-to-car-ahead-of-divisive-referendum/a-66279166> accessed 5 September 2023.

‘Wagner Group Operations in Africa: Civilian Targeting Trends in the Central African Republic and Mali’ (ACLED, 30 August 2022) <https://acleddata.com/2022/08/30/wagner-group-operations-in-africa-civilian-targeting-trends-in-the-central-african-republic-and-mali/#s6> 27 August 2023.