

Statement to the Working Group on the Use of Mercenaries Panel on “PMSCs in places of deprivation of liberty and their impact on human rights”

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I am the Director of the Global Detention Project, a research center based in Geneva that documents the use of detention as a form of migration control in countries across the globe. Our work focuses on developing systematic data on national detention regimes and using this data to highlight gaps in states’ adherence to their human rights obligations and to improve transparency in detention systems. Over the last 10 years, the GDP has documented more than 2,000 facilities that have been used for immigration detention purposes in nearly 100 countries.

I would like to thank the Working Group for holding this panel discussion at this critical time. The growing use of multinational security companies in all forms of deprivation of liberty is an important concern to the human rights community. As states ramp up efforts to block and push back migrant and refugee movements across the globe, private companies are among a host of non-state actors who are increasingly being brought in to manage and control these movements, including in places of detention.

My comments will focus on three main areas:

1. What are the drivers behind the privatization of immigration detention?
2. Who are the key players and where are they active?
3. What are the main concerns regarding the involvement of multinational security companies in immigration detention systems?

1. DRIVERS

Key drivers behind the privatization of immigration detention have included:

1. **Ideology:** The emergence of neoliberalism has been a main driving force behind the privatization of numerous activities that were previously regarded as the sole purview of the state, including notably the privatization of prisons and detention centers.

2. **Lobbying:** There is a growing body of evidence from the US, the UK, and elsewhere showing a correspondence between the lobbying efforts of private prison companies and policymaking regarding immigration detention. This is compounded by a “revolving door” system connecting company boards and governments.
3. **Perceived need in times of crisis:** Large movements of migrants and asylum seekers have often served as a backdrop for innovations in detention systems, including with respect to privatization. Examples include (1) the Caribbean crisis in the early 1980s, which helped private prison entrepreneurs and their allies in the US Congress to establish the first privately operated dedicated immigration detention; and (2) in Europe today, where the move to set up “hotspots” in Greece and Italy has included employing private contractors to help manage detention operations.
4. **To co-opt or avoid human rights obligations:** The first privatized immigration detention center was established in the UK in the early 1970s when the government commissioned the for-profit company Securicor to administer the Harmondsworth detention facility at Heathrow airport based on the rationale that private contractors would be viewed as less “oppressive” than police officers by people in administrative detention. More broadly, we have observed how (1) States employ outside actors, including private companies, as a way of avoiding applying international norms, like the right to claim asylum; and how (2) states can co-opt human rights campaigns instead of challenging them, for instance hijacking the language of “alternatives to detention” to promote ankle-bracelet programs that are run by private companies.

2. KEY PLAYERS

A number of recent studies reveal that in countries across Europe and elsewhere there are a growing number of private actors involved in managing migrants and refugees in detention.¹ However, when we narrow the scope of our analysis to multinational corporations operating inside dedicated immigration detention centers—and not, for instance in criminal prisons that are used for immigration purposes—we see that to date the phenomenon of the privatization of immigration detention remains largely concentrated among a few companies operating in a small handful of countries.

¹ See, for instance, Lydie Arbogast, “Migrant Detention in the European Union: A Thriving Business,” *Migreurop*, 2016; Michael Flynn, Matthew Flynn, and Eryn Wagnon, “Uneven Business: Privatization of Immigration Detention in Europe,” in *Privatizing Punishment in Europe*, edited by Tom Daems and Tom Vander Beken (forthcoming 2017).

The main countries have traditionally been three English-language countries that share several characteristics, including notably a firm ideological embrace of neoliberalism and common law legal traditions—as opposed to civil law countries in continental Europe where there appears to be more judicial control of immigration detention practices. The key countries have been the United Kingdom, the United States, and Australia. The UK and Australia have placed management of nearly their entire immigration detention systems in the hands of private companies; in the US, more than two thirds of all immigration detention beds are managed by private contractors.

More recently, privatization of immigration detention operations has expanded to several other European countries, including Italy, France, Austria, and the Netherlands.

Among the better-known corporations involved in immigration detention operations are (see the annex for a more complete list of information):

- **G4S**, the world’s largest private security company, which operates or provides security at immigration detention centers in the **United States**, the **United Kingdom**, **Netherlands**, and **Austria**.
- **GEO Group**, which operates more than a dozen detention centers in the **United States** as well as one immigration detention center in the **United Kingdom** (Dungavel).
- **CoreCivic (formerly the Corrections Corporation of America)**, the largest private prison company in the United States which operates several immigration detention centers in that country.
- **SERCO**, which operates all of **Australia’s** mainland detention centers and its facility on Christmas Island; it also operates one immigration detention facility in the **United Kingdom** (Yarl’s Wood).
- **GEPSA**, a French subsidiary of the company Cofely which is part of the multinational energy company ENGIE (formerly GDF Suez), provides management services in detention centers in **Italy** (three Identification and Expulsion Centers) and **France** (services at 34 prisons and 8 CRAs “Centres de Retention Administrative”).

3. KEY CONCERNS

1. **Abuses in detention:** Nearly all the companies mentioned above have been the target of severe criticism or lawsuits for either mismanaging detention facilities or mistreating detainees. It is hard to avoid the conclusion that private companies will inevitably seek to cut costs, leading to a decline in services. However, it is equally true that immigration detainees often suffer abject abuses in state-run facilities.

2. **Failure of accountability:** When private actors operate detention facilities, questions often emerge about who has effective control of detainees and who should be held accountable when abuses occur. Government have at times tried to use the privately operated nature of facilities as a shield to protect themselves from liability for violations. As one scholar notes, when using non-state actors states can try to insulate themselves by “creating the appearance that migration control is ... private and thus external to the state itself.”²
3. **Lack of transparency:** Journalists and detention monitors have reported less access to detention centers that are operated by private companies. In addition, company employees can be bound by non-disclosure agreements, can face backlashes for speaking out, or can struggle with “dual loyalty” issues pitting their duty to perform their jobs against their loyalty to their employers.³ Immigration detention systems are notorious for their lack of transparency⁴; the addition of ingrained cultures of corporate secrecy can seriously exasperate this problem.
4. **Changing political economy of immigration policymaking:** Immigration detention is intended to serve an administrative role to accomplish immigration goals. However, in deciding to privatize detention operations, the state opens the door to the potential that the rationale for immigration detention is not to meet the limited aims of administrative detention, but to satisfy the profit motives of companies. As one private prison expert has argued, “Allowing the private sector to run immigration detention will mean ... an ever increasing number of people coming into the system and staying there longer ... as companies seek to maintain and expand their markets.”⁵

² Thomas Gammeltoft-Hansen, “The Rise of the Private Border Guard,” in *The Migration Industry and the Commercialization of International Migration*, Thomas Gammeltoft-Hansen and Ninna Nyberg Sørensen (eds). Routledge. New York. 2013.

³ See, for instance, Stephen Brooker, Steve Albert, Peter Young, and Zachary Steel, “Challenges to Providing Mental Health Care in Immigration Detention,” Global Detention Project Working Paper, December 2016, <https://www.globaldetentionproject.org/wp-content/uploads/2016/12/Brooker-et-al-GDP-paper-2016.pdf>.

⁴ Access Info Europe & Global Detention Project, “The Uncounted: The Detention of Migrants and Asylum Seekers in Europe,” December 2015, <https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe>.

⁵ Stephen Nathan, “The Politics of Privatized Immigration Detention,” presentation at the Graduate Institute for International and Development Studies, Geneva, 2 March 2010.

ANNEX: Key Multinational Companies Involved in Immigration Detention

1. **BOSASA GROUP** assists in the management of **South Africa's** sole dedicated immigration detention center, the Lindela Repatriation Center, providing security and other services.
 - **Home country:** South Africa
 - Main operations in South Africa, where it also operates prisons, provides airport security, and manages youth development centers.
 - Actively engaged in expanding its businesses throughout the South African Development Community (SADC) countries.
 - Employees have been accused of committing a series of human rights abuses against detainees at Lindela, including excessive use of force and intimidation.⁶
2. **CAPITA** subsidiary **Tascor's** detention operations in the **United Kingdom** include managing two short-term detention facilities (Larne and Pennine) and providing secure detainee transport for several other immigration detention centers.
 - **Home country:** United Kingdom
 - Operates an international outsourcing and professional services company.
 - Manages detention facilities in the juxtaposed control areas in Calais and Coquelles **France**.⁷
 - Provides secure overseas escorting and deportation services.⁸
 - Tascor's "escorting" contract for the Home Office is currently (January 2017) in the process of being retendered.⁹
 - Management of the detention "holding facilities" at the Eurotunnel and Dunkerque also up for retender.¹⁰
 - Accused by UK prison inspectorate of mistreatment of detainees during deportations.¹¹
3. **CoreCivic (formerly Corrections Corporation of America)** is the largest private prison company in the United States and operates several immigration detention centers.
 - **Home country:** United States
 - Detention operations are limited to the United States, but it previously partnered with companies abroad, particularly in the United Kingdom.
 - Numerous documented abuses of detainees at its facilities,¹² including severe medical neglect leading to numerous deaths in detention.¹³
4. **FERROVIAL** through recent purchase of **BROADSPECTRUM (formerly Transfield)** became operator of Australian offshore detention centers in **Nauru** and **Manus Island** (Papua New Guinea).

⁶ <http://lhr.org.za/news/2017/violence-and-violations-lindela-repatriation-centre>

⁷ <http://www.tedsl.co.uk/border-and-immigration/what-we-do/>

⁸ <http://www.tedsl.co.uk/border-and-immigration/what-we-do/>

⁹ <https://corporatewatch.org/news/2017/jan/06/deportation-charter-flights-collective-expulsion-2017#2.1>

¹⁰ <https://calaismigrantsolidarity.wordpress.com/2016/09/10/home-office-quietly-advertises-80-million-privatisation-of-calais-border-security/>

¹¹ <https://www.theguardian.com/uk-news/2014/jun/02/deportees-prisons-inspector-tascor-private-security-staff>

¹² <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>

¹³ <https://news.vice.com/article/this-is-how-medical-negligence-can-kill-immigrants-held-at-ice-detention-centers>

- **Home country:** Spain
 - Multinational facilities management corporation.
 - Subcontracts Wilson Security to provide security in Nauru and Manus.
 - In August 2016 Australia's immigration department extended the contract for an additional eight months but company has announced that it will no longer make a bid to provide services on Manus and Nauru.¹⁴
 - Legal experts called for an investigation into possible "crimes against humanity committed by individuals and corporate actors" in Australia's detention centers in Nauru and Manus.¹⁵
5. **G4S:** The world's largest private security company provides immigration detention services and/or operates detention centers in the **United States, the United Kingdom, Netherlands, and Austria**. Formerly operated Australia's offshore facility on Manus Island. Actively marketing its detention services in numerous other countries across the globe, including Turkey, UAE, and Slovakia.
- **Home country:** United Kingdom
 - Recently won contract to provide welfare support for children and families facing deportation and detention in UK (new self-contained unit at Tinsley house), replacing the private charity Barnardo's.¹⁶
 - Its immigration detention operations have been the subject of corporate manslaughter charges, accusations of excessive use of force, among numerous other charges.
6. **GEO Group:** Operates more than a dozen detention centers in the **United States** that are either immigration-only or provide both immigration and criminal justice detention as well as one immigration detention center in the **United Kingdom** (Dungavel).
- **Home country:** United States
 - Also operates prisons in South Africa and Australia.
 - Recently awarded \$110 million federal contract to build the first new immigrant detention center under the Trump administration.¹⁷¹⁸
 - Facing ongoing class-action lawsuit alleging violation of US federal anti-slavery laws in one of its detention center that could involve as many as 60,000 people.¹⁹
7. **GEPSA**, a French subsidiary of the company Cofely which is part of the multinational energy company ENGIE (formerly GDF Suez), provides management services in detention centers in Italy (three Identification and Expulsion Centers, CIEs) and France (services at 34 prisons and 8 CRAs "Centres de Retention Administrative").
- **Home country:** France
 - Main business is prison management.
 - Replaced Red Cross as main operator of Italian CIEs in 2015.²⁰

¹⁴ <https://www.theguardian.com/australia-news/2017/mar/29/immigration-department-suppressed-detention-contractors-name-due-to-boycotts>

¹⁵ <https://www.theguardian.com/australia-news/2017/feb/13/international-criminal-court-told-australias-detention-regime-could-be-a-against-humanity>

¹⁶ <https://www.theguardian.com/uk-news/2017/feb/09/g4s-welfare-support-families-children-deportation-gatwick>

¹⁷ https://www.washingtonpost.com/national/texas-getting-first-immigrant-center-built-under-trump/2017/04/13/03b63462-20a6-11e7-bb59-a74ccaf1d02f_story.html?utm_term=.a402a34cce5e

¹⁸ <https://www.lexisnexis.com/legalnewsroom/immigration/b/outsidenews/archive/2017/04/21/geo-group-gives-money-to-trump-gets-110m-immigration-prison-contract.aspx?Redirected=true#sthash.S6EulCKv.dpuf>

¹⁹ https://www.washingtonpost.com/news/post-nation/wp/2017/03/05/thousands-of-ice-detainees-claim-they-were-forced-into-labor-a-violation-of-anti-slavery-laws/?utm_term=.209550ba7e59

8. **MITIE PLC:** Operates three immigration detention centers in the **United Kingdom** (Campsfield, Harmondsworth, and Colnbrook)
 - **Home country:** United Kingdom
 - Has portfolio of facilities and management services in 23 countries across Europe, the Middle East, and Asia.

9. **SERCO:** Operates all 9 of **Australia's** mainland detention centers including the facility on Christmas Island, as well as one immigration detention facility in the **United Kingdom** (Yarl's Wood)
 - **Home country:** United Kingdom
 - It is actively seeking additional contracts in other countries. Lobbied heavily to get contract to operate immigration detention center in the United States near Mexico border but Texas officials voted against their bid.
 - Has faced severe criticism of its immigration detention operations, including in particular at Yarl's Wood²¹ and Christmas Island.²²

²⁰ <http://pulitzercenter.org/reporting/italy-future-migrants-and-refugees>

²¹ <http://www.independent.co.uk/news/uk/crime/yarls-wood-conditions-at-immigration-removal-centre-have-deteriorated-so-much-that-female-detainees-10450554.html>

²² <https://www.theguardian.com/business/2014/dec/10/serco-australian-immigration-detention-centres-contract-christmas-island>