

The Role of Private Military Contractors and their Impact on Humanity

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Abstract

The present paper tries to identify the use of force by Private military contractors in international politics and how transformation of the power to the non-state actors has led to humanitarian abuses. For the last two decades deployment of private military contractors has increased tremendously in conflict ridden countries.¹ Traditionally the use of force was the realm only of the state but the current scenario shows that not only the state but even the non-state actors are involved in using force.²

Keywords: Private Military Contractors, State Non-state actors, Human Rights, Peace-keeping Transparency Violation.

Since the demise of the Soviet Union and end of the Cold War there has been a lack of highly skilled and experienced armed forces in the developed and developing world to maintain security and order, thereby leading to the emergence of the private military contractors like Triple Canopy, ACADEMI, Andrews International, Control Risk Groups, Africa Crisis Response Initiative (ACRI) and Africa Contingency Operations Training Assistance (ACOTA) and Aegis Defence Force in the international scenario.

According to Chesterman and Lehnardt private military firms can be defined as “firms providing services outside their home states with the potential for use of lethal force, as well as of training and advice to militaries that substantially affects their war fighting capacities”.³

The collapse of the old order created a global security vacuum, which along with “transformations in the nature of warfare, and the normative rise of privatization” forged a “new space and demand for the establishment of the privatized military industry”. The end of the Cold War, as well as the collapse of South African apartheid, stimulated greater demand for security services while the disbandment of significant portions of the U.S., Russian, and South African militaries increased the supply of skilled military personnel available for private contracting. For instance according to Holmqvist, the US military forces and the private security personnel’s deployed in Iraq in the war of 2003 were 1:10 and around 2800 private contractors operated in South Africa outnumbering

¹ A. Leander, “The Power to Construct International Security: On the significance of Private Military Companies”, *Millennium Journal of International Studies*, Vol.33, 2005, pp. 803-826.

² A.D. Deborah, “*The Market Force: The Consequences of Privatising Security*”, Cambridge, Cambridge University Press, 2005.

³ S. Chesterman and C Lehnardt, *From Mercenaries to Market: Theories of Regulation of Private Military Companies*, New York, Oxford University Press, 2007.

the number of police officers. Private military contractors are playing a major role in the global political arena ever since the modern state was established.⁴

The private military industry consists of profit-maximizing corporations that specialise in a variety of military and security services. The Geneva Centre for Democratic Control of Armed Forces defines Private military firms as “business that offers specialised services relating to war and conflict, including combat operations, strategic planning, intelligence collection, operational and logistical support, training, procurement and maintenance.”⁵ *Three groups of countries may be involved in the activities carried out by transnational Private Military Security Companies (PMSC): The First are the, exporting countries that supply private military and security services; Second, are the importing countries that demand such services, and third, are the states of PMSC staff nationality, often from developing countries that furnish cheap labour to the transnational private military and security companies.* Most guards that are employed by the so-called Private Security Companies (PSCs), which offers protective services and related consultation, belong to the developing countries.⁶

The list of private military contractor’s client states over the last decade includes 16 countries; Angola, Australia, Canada, Columbia, Congo, Croatia, Great Britain, France, Liberia, Oman, Papua New Guinea, Saudi Arabia, Senegal, Sierra Leone, Sudan and the United States. The Cold War’s demise reduced the strategic worth that strong states⁷ including the states such as United States, France, and Great Britain, had formally attached to it many regions, giving them less incentive to mediate with their own troops in some hot spots. This left the weak states⁸ such as Angola, Sudan, and Liberia with acute security concerns due to instability. Consequently, weak states in dire security situations have little choice but to contract private firms to provide order at home; by contrast, powerful states are better positioned to defend themselves, have much greater choice, and therefore are more likely to contract private companies to implement policy abroad.⁹ As a result the use of these contractors unequally divides the security risks, as

⁴ C. Holmqvist, *Private Security Companies: The Case for Krahnmann, E. States, Citizens and Privatisation of Security*, Cambridge University Press, Cambridge Regulation, Stockholm International Peace Research Institute, Policy Paper No. 9, 2005.

A.M. Buzatu, and S.B Buckland, *Private Military and Security Companies: Future Challenges in Security Governance*, DCAF Horizon Working Paper No. 3, 2015.

F. Schreier and M. Caparini, *Privatising Security Law: Practice and Governance of Private Military and Security Companies*, Geneva Centre for Democratic Control of Armed Forces Paper No. 6, 2005.

⁵ F. Schreier and M. Caparini, *op. cit.*

⁶ K. Lim, “Military Privatisation and Its Impact on the Nature of Warfare”, *Melbourne Journal of Politics*, Vol. no.32, 2007, p.6.

⁷ ‘strong states’ can be defined as states that are in full control of their territories and provide high quality political goods to their citizens

⁸ ‘weak states’ can be defined as states that are undergoing conflicts such ethnic, religious, linguistic or other tensions which limits or decrease its ability to deliver political goods

⁹ P. Benicsak, *Advantages and Disadvantages of Private Military Companies*, http://www.unob.cz/eam/Documents/Archiv/EaM_1_2012/BENICS%C3%81K.pdf (accessed on 20th May 2016)

those who can afford it, they use it.¹⁰ As a matter of fact the United States intervention in Iraq and Afghanistan has been considered as the most privatised war in military history of the United States. The Government of United States and United Kingdom sent their Private Military Firms like Blackwaters, Aegis, Control Risk Groups, Vinnel, Erinys and KBR to Iraq.¹¹ More private military flooded into the country in the wake of lawlessness in Iraq. By spring in 2004 the numbers rose to 20,000 personnel.¹² They were mostly retired military from Chile, United States, Nepal, Israel and United Kingdom. They were deployed by some sixty private military companies of the United States government, British Government and private firms.

The western governments were initially reluctant to deploy their standard military forces for peacekeeping unless the interest of its people was at risk. This is because they are accountable to the citizens in cases of fatalities of the regular military personnel. With the coming of private military contractors this problem of accountability to its citizens has been taken care of as these contractors are willing to intervene in hostile environments.¹³ Today, these contractors are being hired by western government and United Nations for peace keeping functions at the international level. For example, according to Oldrich Bures, United States government has employed these contractors for peacekeeping training operations in Africa, like Africa Crisis Response Initiative (ACRI) and Africa Contingency Operations Training Assistance (ACOTA). MPRI (Military Professional Resources Inc.) had been hired in 1994 by United States to scrutinize arms smuggling in Bosnia.¹⁴ United Kingdom is using these contractors not only for armed forces operations but also for overseeing navy port and main military battalion.¹⁵ Thus, the non-state actors such as the International Non-Governmental Organizations, Multi National Corporations, even the United Nations and others are funding these private firms in order to realise their own interests. For example, individuals and groups can also use these firms to overthrow the government in power.¹⁶ Similarly, governments can also rely on these contractors to counter the rebel forces in order to ensure stability in the country. Many weak governments in Africa would be a good example of the same.¹⁷ These contractors prosper in the weak states, as the weak states have a poor system of governance.¹⁸

¹⁰ F. Schreier and M. Caparini, *op. cit.*

¹¹ J. Pattinson, *Just War Theory and Privatisation of Military Forces*, Carnegie Council for Ethics and International Affairs, Vol no. 22, 2008 (2) pp. 143-162.

¹² A.M. Buzatu and S.B. Buckland, *op. cit.*

¹³ D. Lilly, *Privatisation of peacekeeping: Prospects and Realities*, Disarmament Forum, 2000.

¹⁴ O. Bures, *Private Military Companies: A Second best Peacekeeping option?*, Routledge, London, 2006.

¹⁵ E. Krahmman, *States Citizens and the Privatisation of Security*, Cambridge University Press, 2010.

¹⁶ F. Schreier and M. Caparini, *op. cit.*

¹⁷ *Ibid.*

¹⁸ H. Gulam, *The Rise of Private Military Companies*, Peace Operation Training Institute, 2005.

Advantages of Hiring Private Military Firms

There are many benefits relevant to security provided by private firms. The most obvious advantage is flexibility; as there is no political and bureaucratic obstruction while making decisions with regard to mobilization of forces.¹⁹ Hiring of Private Military Firms instead of standing army is being considered as a viable option by the government as they provide economic, political and military advantages. Second, they provide economic advantage as they are cost-effective being paid on the basis of a particular assignment.²⁰ The state government enjoys political advantage by deploying the private military personnel than a standing army, as the Government is accountable to its citizens for the life of a standing army. On the contrary, state government is not accountable for the life of contractors as they are on contract basis. Lastly, the states have a military advantage because these private military personnel are highly trained and they are able to provide specialised services. These companies recruit from databases of mostly retired military and police personnel, already trained and experienced, but mainly not eligible for state service anymore. This makes it easier for them to hire people with particular experience.²¹ There is an added advantage too; the Government in conflict ridden states prefer to empower these contractors instead of their national armies due to the fear of *coup d' etat*.²²

Negative Impact on Humanity

Over the years the role of private military contractors is attracting global attention but the major drawback about the functioning of these contractors is their lack of transparency and the notorious nature of their operation due to which it becomes difficult to make certain that they follow the norms of humanity.²³ The propagation and use of arms is directly correlated to the activity of these contractors. The services they provide lead to an increase in the demand for these arms. Increase in the demand further aggravates chances of violence and misuse of these arms. Theoretically these contractors can ensure local security, but since they are hired to protect the bases, offices and Multinational civilians they are not concerned about public security. There may have been many other instances where civilians have been shot by armed contractors. Certainly, there have been numerous reports of contractors firing at Iraqi civilians and attacking their property without reasonable cause.²⁴ In Afghanistan, the mere presence of armed security forces often creates perceptions of insecurity among civilians. This is due to the fact that private military firms have a negative image in public as they are associated with illegal activities such as 'violent assault, petty theft, extortion, looting,

¹⁹ P. Benicsak, *op. cit.*

²⁰ Stinnett N., *Regulating the Privatization of War: How to stop Private Military Firms from committing Human Right Abuses*, Vol. 28, Issue 1, 2005. <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1082&context=iclr> (accessed on 3rd April, 2016)

²¹ P. Benicsak, *op. cit.*

²² *coup d' etat* is the sudden, violent overthrow of an existing Government by a small group

²³ O. Bures, *op. cit.*

²⁴ E. Krahmann, *op. cit.*

drug trafficking, kidnapping, rape, prostitution, harassment of civilians and illegal arms trade.²⁵ According to Singer, while hiring military contractors, many of these companies do not undergo a systematic screening procedure for a thorough background check on the criminal records of these contractors. For example, in Iraq, one company hired ex-British army personnel who had been jailed for being involved with Irish terrorists.²⁶ Another well known event is related to one Blackwater employee, who shot one of the presidential guards in Iraq. This person was instantly removed from the company, but not more than three months later he was working for another company in Kuwait.²⁷

Private military contractors do not have legal structures, like the military justice system, to try cases against their misuse of force. Even the legal status of recruits deployed by PMCs is often vague and their rights and responsibilities are uncertain. This poses inconvenience for both private security personnel and the citizens residing in the area of their deployment.²⁸ There is a great amount of uncertainty as to who they are accountable to. They are not bound by laws or code of conduct that gives them the liberty to abuse human rights of people. They usually do not face prosecution or punishment for their crimes. For example, Singer states that, in Iraq around 20,000 private military contractors were present but no one was punished for any crime. When they commit atrocities and go unpunished it gives them the feeling that they are above law.²⁹ When the private contractors engage in a conflict that may bring about “collateral damage” (the mistaken deaths of innocent civilians and their property, for example), they do not take responsibility for their actions and pay compensation to the affected people.³⁰ This was clearly seen, when the Black Water International that was deployed in Iraq had to be renamed Xe Services in 2009, to escape the dark cloud it had been under as it had been guilty of torturing and killing innocent civilians.³¹ According to Scahill, Nissour square incident also has raised questions about the functioning of these contractors. In this incident 17 innocent civilians were killed by Black Water in Iraq.³² Private Military Firms do not confer to international regulations and standards. For instance, in 1995, Nathaniel Stinnett observed that the government of Sierra Leone hired South African Private Military Firm, Executive Outcomes (EO) to help suppress the rebellious Revolutionary United Front, the Executive Outcomes took over all the military operations and when the EO commander was asked about how to distinguish

²⁵ Ibid.

²⁶ P.W. Singer, *The Private Military Industry and Iraq: What Have We Learnt and Where to Next?*, Geneva Centre for Democratic Control of Armed Forces, 2004.

²⁷ A. Stranger and M.E. William M. E., “Private Military Corporations: Benefits and Costs of Outsourcing Security”, *Yale Journal of International Affairs*, 2006.

²⁸ Ibid.

²⁹ P.W. Singer, *op. cit.*

³⁰ A. Stranger and M.E. William M. E, *op. cit.*

³¹ S. Chakrabarti, “Growth and Implications of Private Military Corporations”, *Journal of Defence Studies*, Vol 2, No 1, 2008.

³² Scahill, J., *Black Water: The Rise of the World’s Most Powerful Mercenary Army*, London, 2007, (*Serpent Tail*); Irvin A.G, *Rethinking the Role and Regulation of Private Military Companies: What the United States and United Kingdom can Learn from Shared Experiences in the War on Terror*, Vol 39:445, 2008.

between civilians and rebels, EO commanders supposedly asked the military firms to kill everyone.³³

There have been reports of gross violation of human rights of Iraqi prisoners in Abu Ghraib prison by an American private military firm DynCorp as discussed in the work of Chakrabarti and Seymour.³⁴ These contractors have been accused of committing several atrocities against these prisoners. They have also been involved in other illegal activities. As an example, during their operation in Balkans they ran a sex trade; they were involved in human trafficking of girls below 12 years of age. Till date these girls are awaiting justice.³⁵

States while employing these contractors do not directly instruct them to violate human rights, but indirectly they facilitate or contribute to violation of human rights in certain situations.³⁶ For example, United States has successfully negotiated immunity for its citizens in Iraq, including the private military contractors. Immunity has been granted against any allegations of human rights violations practised by these contractors in Iraq.³⁷ Another concern is that even the organisations that hire PSCs sometimes lack control over their operations. United States case can be taken as an example; the use of armed security guards has serious implications because they involve the potential use of force in the execution of their duties. There have been many reports of armed contractors using excessive or arbitrary force against civilian populations in Iraq and Afghanistan, despite clear Rules for the Use of Force (RUF). The RUF lay down that 'private security contractor personnel are authorized to use deadly force only when the situation demands i.e., in case of self-defence, protection of facilities and persons as specified in their contract; In practice, however, many employees of PSCs pay insufficient attention to the Rules for the Use of Force.³⁸ According to a report by the Director General of External Policies European Parliament, In Afghanistan, armed forces employed by ISAF(International Security Assistance Force) or contributing nations have been accused of killing a local police chief, 'killing or wounding more than 30 innocent civilians during the past four years in Afghanistan's Maywand district' and 'regularly firing wildly into villages as they pass by.'³⁹ These incidents of human rights abuses lead to a generation of negative feeling among the local civilians in Iraq and Afghanistan that contractors do not undergo rigorous investigation when they commit crimes and thereby go unpunished.

³³ N. Stinnett, *op. cit.*

³⁴ S. Chakrabarti, *op. cit.* Seymour M. H, "Torture at Abu Ghraib: Annals of National Security", *The New Yorker*, 2004.

³⁵ N. Stinnett, *op. cit.*

³⁶ R.M. Corquodale and P. Simons, *Responsibility beyond Borders: State Responsibility for Extraterritorial Violations by Corporations of International Human Rights Law*, Blackwell Publishing, 2007.

³⁷ A. H. Wolf, "Modern Condottieri in Iraq: Privatising War from the Perspective of International and Human Rights Law" *Indiana Journal of Global Legal Studies*, Vol 13, Issue 2, 2006.

³⁸ E. Krahnmann, *op. cit.*

³⁹ *Ibid.*

Conclusion

Today, there is a pressing need for cost-effective, skilled and efficient private military personnel in both developed and developing countries. They have been embraced as essential and valuable tools. The major powers have accepted that PMCs can be useful in implementing foreign policy. In spite of this, these contractors are still not universally welcome. The United Nations and other non-state organizations strongly condemn these “mercenary” groups as they purportedly violate state sovereignty and lack accountability.⁴⁰ What should be kept in mind is that there are hardly any adequate domestic and international regulations to keep these personnel within their legal boundaries; as a result we hear cases of gross violation of human rights. Government should take measures in order to increase the accountability of these private military firms, for instance, effective measures like scrutiny by media and civil society groups.⁴¹ The non-state actors like International Non-Governmental Organization and Multi-National Corporation should limit their role in the use of force as this will bring some relief to humanity. The government should take measures to increase the accountability of these private military firms in order to prevent further incidents of violation of human rights. Making these contractors accountable will help in scrutinising the functioning of these contractors.⁴² Government should also decrease the reliance on these contractors in order to avoid incidents of violation of human rights.⁴³ Operation of these contractors can be controlled by ensuring that the registration and certification of these contractors are collectively approved by a multitude of nations.⁴⁴ The deployment of these contractors can be also controlled through parliamentary control. Corruption can be controlled through the efficient management of these contractors by the agencies.⁴⁵ Thus the need of the hour is to develop an effective coordinated regulatory scheme and establish a regulating body at the domestic and international level that would act as a panacea to this problem in order to prevent their excess use of power that has led to serious problems for humanity, thinning the boundary between the civilians and military use of force.

⁴⁰ A. Stranger and M. E. William, *op. cit.*

⁴¹ A. Mehra, “Bridging Accountability Gaps: The Proliferation of Private Military and Security Companies and Ensuring Accountability for Human Rights Violations”,

Pacific McGeorge Global Business and Development Law Journal, 2010.

<http://digitalcommons.mcgeorge.edu/cgi/viewcontent.cgi?article=1096&context=globe> (Accessed on 7th April, 2016).

P.W. Singer, P.W., “Can’t Win With ‘Em Can’t Go To War without ‘Em. Private Military Contractors and Counter-insurgency”, *Policy paper number 4*, 2007.

⁴² *Ibid.*

⁴³ A. G. Irvin, *op. cit.*

⁴⁴ James A. N, *Poppy Blues: The Collapse of Poppy Eradication and the Road Ahead in Afghanistan*, Routledge, 2010.

⁴⁵ E. Krahnmann, *op. cit.*

