

The Role of Private Military/Security Companies in Peacekeeping Operations in Conflict Zones

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Abstract :

Private Military/Security Companies were an important mean to realize material gains in the field of executing the great power's purposes, but current transformations in the nature and structure of the international system, it is remarkable that the role of this kind of companies has raised in making of its classical one and adopting new roles such as peacekeeping missions in armed conflict zones, so Private Military/Security Companies make some efforts to develop its methods and techniques to guarantee effective performance for its mission in some zones like Somalia and Kosovo.

Key words:

Private Military/Security Companies- Security Privatization- Armed Conflict Zones- Peacekeeping

Résumé :

Les Sociétés Militaires/Sécuritaires Privées étaient comme un mécanisme pour attendre des buts financiers/ lucratifs dans le cadre d'exécution des plans des grandes puissances, mais au cours des changements au niveau de la nature et la structure du système international, le même type de sociétés, a fait accroître la performance de ses rôles classiques voire l'adoption de nouveaux rôles comme les missions du maintien de la paix dans les zones de conflits armés, si bien que les Sociétés Militaires/Sécuritaires Privées ont travaillé à améliorer des méthodes et des techniques en matière du maintien de la paix pour garantir une performance efficace pour leurs opérations dans plusieurs zones comme la Somalie et le Kosovo.

Mots-clés: Sociétés Militaires/Sécuritaires Privées- Privatisation de la Sécurité- Zones de Conflits Armés- Maintien de la Paix.

المُلخَص:

لطالما كانت الشركات الامنية/العسكرية الخاصة وسيل لتحقيق مكاسب مادية/ربحية بحتة في اطار تنفيذ اهداف قوى كبرى، لكن مع التغيرات الحاصلة في طبيعة وبنية النظام الدولي، شهدت هذه الشركات تزايدا في اداء ادوارها الكلاسيكية اضافة الى تبنيها لأدوار جديدة تتماشى مع هذه التغيرات السريعة والتي تتمثل في مهمات حفظ السلام في مناطق النزاعات المسلحة، ولذلك قامت الشركات الامنية الخاصة بتطوير اساليب وتقنيات تمكّنها من ضمان اداء جيد، فعال و عقلاني لعملياتها في مختلف المناطق من قبيل الصومال وكوسوفو.

الكلمات المفتاحية: الشركات الامنية/العسكرية الخاصة- خصخصة الامن- مناطق النزاعات المسلحة- حفظ السلام.

Introduction :

The Private Military/Security Companies are not considered as a new phenomenon, they have existed as ancient as war. Moreover, there have been warriors or soldiers prepared to work for external powers and taking rewards or glories. Private Military/Security Companies are different now than past, assuming an array of responsibilities- from personal security, training of troupes and armies, to equipment maintenance- they consider themselves as capable corp. While the beginnings of the Private Military/Security Companies industry were to a great extent related to mercenary activities engaged in wars and conflicts, the constant and sometimes disguised association of Private Military/Security Companies with their precedecessors has tented to blur understanding of the role they could play in restoring peace and stability.

Over the last years new type of international security contractors have emerged to fill the resulting what we can call it a security gap left by the international community in the form of PMSC, and these companies have been created from a military surplus. The purpose for privatization has been to boost efficiency and reduce costs in public services which the state is failing to do effectively.

In the other side, we can find that some PMSC have a history of working with the United Nations which dates back decades, and the PMSCs industry increasingly offers services that penetrate some of the core activities and tasks of the United Nations and is eager to

supplement the tasks often performed by the United Nations in humanitarian and peacekeeping operations, political missions or as part of regular country office work.

01/ Typology of private security groups

Private security groups are used as a generic term to encompass both mercenary forces and private security and military companies when talking about them in general as a manifestation of the privatization of security. In fact, the lack of exact and established definition has served to cloud the policy debate on the privatization of security.

1.1 mercenaries

The popular notion of a “mercenary” someone who fights for financial gain in armed conflicts alien to their own nationality. Comes from Africa’s post-colonial history. Instead of fighting as part of national armies. As their historical counterparts, mercenary forces were often employed by colonialist and rival groups of forces to national liberation movements. Hired for their perceived military supremacy. A relatively small mercenary force could pose a severe threat to an emerging newly-independent African state. (1)

The mercenary activity of the 1960’s led to a backlash by African leaders who saw it as threatening their counters to self-determination and new found sovereignty. So the UN general assembly passed its first resolution (2). Condemning the use of mercenaries in 1968 (3)

Since then, UN bodies have repeatedly condemned mercenary activity as in internationally unlawful act which serves to undermine the exercise of the right to self-determination of people and the enjoyment of human rights. This period led to efforts to limit mercenary activity. And in 1977 mercenaries were given legal status within international humanitarian law with the adoption of Article 47 to additional Protocol of the Geneva Convention (4)

For somebody to be classified as a mercenary six criteria must cumulatively be met. A mercenary is person who: (5)

a/ is specially recruited locally or abroad in order to fight in an armed conflict

b/ does. in fact take part in the hostilities

c/ is motivated to take part in the hostilities essentially by the desire for private gain and in fact is promised by or on behalf of a party to the conflict. Material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that party

d/ is neither a national of a party to the conflict or resident of a territory controlled by a party to the conflict.

e/ is not a member of the armed forces of a party to the conflict

f/ has not been sent by a state which is not a party to the conflicts on official duty as a member of its armed forces

The definition of a mercenary that has been used in each of these instruments has been criticized as being so narrow by Olefin since all six criteria must be met cumulatively as to render it meaningless in most situations, and the article 47 was designed in such a way as to ensure that it could not be misused to deny combatant and prisoner of war status to legitimate combatants (6)

The combination of problems has led one commentator to suggest that if an individual were convicted of being a mercenary, they should shoot their lawyer.(7) The use of this definition is therefore, only relevant to a few circumscribed situations and not particularly helpful for understanding the phenomenon especially as it exists today and and importantly the definition has been carefully worded so to allow states to retain the right as they have enjoyed throughout history to hire foreign soldiers as part of their national forces.(8)

1.2 private military companies

The discourse on mercenaries reached another stage in the 1990's with the advent of private military companies providing a range of services in conflict situations including combat and operational support military advice and training, arms procurement, intelligence gathering hostage rescues and post conflict reconstruction.(10)

The first even private military company dates back to 1967 when colonel sir David Stirling founded Watch Guard International, a

company employing former British militaries overseas, there have been a member of other companies that have become active over the last decade.(11)

1.3/ private security companies

The majority of private security companies are used in a crime prevention capacity to protect businesses and property in non-conflict situations.⁽¹²⁾

02/ Legal basis of using PMSC's in peacekeeping operations

The UN charter does not contain any provision with respect to peacekeeping operations nevertheless UN peacekeeping operations are widely accepted as a legal instrument and neither it is possible to qualify them as chapter VI (pacific settlement of disputes) nor as Chapter VII (action with respect to threats to the peace, breaches of the peace and acts of aggression) measures (13). This finds its expression in the term Chapter VI ½ measures established by the former Secretary General Dag Hammarskjold, so Chapter VI was discussed particularly with respect to early peacekeeping operations, which aimed to monitor ceasefire agreements, in contrast to Chapter VII that was discussed with respect to peacekeeping operations of the newer generations. (14)

However, Chapter VI cannot be involved, since it is not in line with the possibility to use force as it is required for peacekeeping operations, and Chapter VII cannot be involved either since peacekeeping operations are not considered to constitute enforcement measures in terms of Art.39 FF. Un Charter.(15) Furthermore, it is questionable to invoke Art 51 (Chapter VII) UN Charter, since it allows the use of force only until the Security Council has made a decision, therefore, as soon as the Security Council has adopted the mandate, it is no longer possible to invoke Art 51 UN Charter, and the ICJ addressed his question too, it did neither refer to Chapter VI nor to Chapter VII but instead claimed the Charter as a whole to be the legal basis for peacekeeping operations and therefore made reference to the implied powers doctrine.(16)

03/ Role of PMSC's in peacekeeping operations

Various studies have examined the possible role of PMSC's in contemporary conflicts and proposed options for their regulation, and only three reports- a Green Paper by British Foreign Office (2002) , an analysis by Refugees International (2003), and a UN aimed initiative by the Global Security Partnership Project (2003)- have specifically focused on the possibility of outsourcing some of the increasingly complex international peacekeeping functions.(17)

The British government Green Paper, Private Military Companies: Options for Regulation, suggests that ' reputable ' PMC's could be hired for international peacekeeping duties and proposes regulation on a national basis that should enable governments to " distinguish between reputable and disreputable private sector operators, to encourage and support the former while, as far as possible, eliminating the latter ". (18)

The paper researches the potential risks and benefits of the following options for regulation of UK registered PMC's : (19)

- a) a ban on military activity abroad.
- b) a ban on recruitment for military activity abroad.
- c) registration and notification.
- e) a general license for PMC's.
- f) self-regulation: a voluntary code of conduct.

Peter H.Gantz, the author of the "Private Sector's Role in Peacekeeping and Peace Enforcement" for Refugees International begins by posing an intriguing question: ' What would the world do if another Rwanda happened ? ', so he suggests that no one has a satisfactory answer to this question, according to Gantz, although ' privatization of combat capacity is not a panacea ', hiring private companies is one possible way to do it.(20)

Thus, while recognizing that private companies would not be needed if the UN had greater capacity to conduct effective peace operations, and Refugees International recommends that the UN should consider ' using private contractors for logistical support, given appropriate

systems of oversight and accountability.(21) In addition, the report also suggests that the UN could greatly enhance the effectiveness of troops from developing countries by using PMC's to better prepare troops for peacekeeping or to provide transportation and communication capacities.(22)

Another proposal for dealing with the shortcoming of UN peacekeeping efforts has come from a private group, the Global Security Partnership Project (renamed Global Peace and Security Partnership), according to GPSP, a key problem is that private soldiers offering peacekeeping services do so for either money or adventure, not for the benefit of the international community.(23) In the same context, the United Nations currently contact PMSC's for services such as static security guarding, logistic support and demining and ordnance disposal during peacekeeping operations.(24) In many cases, services seem to be procured in combination: logistic services are often combined with security, which in turn may imply information-gathering or intelligence services.(25)

04/ PMSC's in Peacekeeping Operations: Is There a Problematic ?

Whether PMC's are involved in peacekeeping operations or other type of military-support tasks, they are often viewed negatively as individuals motivated by financial gain rather patriotism, in contrast, Blue Helmets generally embody the higher interests and the authority of the nations of the whole world.(26) They are not typically viewed as siding with one the belligerents, so the situation may be different with private military companies, whose links (financial or otherwise) with various countries might make them appear more vulnerable to outside political influences and more driven by financial concerns.(27)

The peacekeepers mission of restoring confidence in the state's authority requires understanding of the conflict and its various ramifications, so private companies may not be sufficiently equipped to carry out activities inherent to peacekeeping and peace building such as cease-fire monitoring, troop disarmament or election monitoring.(28) Beyond credibility and moral status, the use of PMC's as peacekeepers also raises important question of accountability, in this case, the legal regime governing mercenaries is inapplicable to private security/military companies, and the

accountability issue not only arises from the flaws of the legal regime applicable to mercenaries, but also from inability or unwillingness of states to deal with PMC's.(29)

Perhaps by fear of legitimizing their use, governments have failed to adopt suitable legislation dealing with PMCs, leaving it to the companies to find a way to hold their employees accountable in case of abuses and to ensure their respect of basic norms of international law, as a result, no clear guidelines govern PMCs conduct or status.(30)

The use of private actors to perform functions involving the use of force on behalf of the United Nations, NATO or any regional organization raises the question of whether private contractors are entitled to use force under international law, this question is not specific to their potential use as peacekeepers; rather, it has to do with the more general query of whether these private entities are at all legitimate.(31) Arguably the greatest obstacle to the use of PMCs as peacekeepers is the UN's official position- through its Special Report on Mercenaries in particular- that PMCs are illegitimate actors comparable to mercenaries.(32)

05/ Current examples on using of PMSCs in Peacekeeping Operations

When the UN is directly targeted by one of the parties then it became different to maintain its neutrality, requiring the UN to establish new methods to respond to hostage taking and terrorist action, in extreme cases, the constitution of a Rapid Reaction Unit under contract to UN, which would act outside of the peacekeeping mission, and such action could only occur after a special vote of the General Assembly and only for a very precise mission, and for an extremely short period of time.(33) The UN has used PMCs since 1990's, Pacific Architects and Engineers (PAE), Defense Systems Limited (DSL), DynCorp and SkyLink are some of numerous companies used nowadays by the different bodies of the UN, so the use of such companies will increase ; step by step they are investing more elements of the UN missions.(34) In past, they were building refugees camp and were providing monitors or civilian police officers,

today they are involved in the security and the protection of UN personnel.(35)

*** Somalia**

During the operation “Restore Freedom “under the joint US/UN command, the Brown and Roots (BRS), company preceded the US Marines beach landing by 24 hours, they provided the troops with logistic, food and house care, so BRS had outsourced those tasks to local understanding women; such project could be useful to help the local economy, but in this case there was no regulating office to check the compliance of BRS with the international working conditions standards and the salaries.(36) During the night of March 4th, 1993 ; one Somali civilian was killed and another one wounded by Canadian soldiers, the subsequent inquiries had shown there was a break down in the chain of command and in Rules of Engagement (RoE).(37)

*** Kosovo**

Kosovo marks the enhancement of the utilization of PMCs in peacekeeping operations, and in most cases with MPRI and DynCorp, this last PMC has created several problems, but the worst which has resulted in poorest press and which requires an urgent action for an international regulation, is a sexual scandal.(38) In 2000, the DynCorp affair burst implication some observers and police elements of the UN peacekeeping mission in sexual slavery, teenage prostitution and sale of human beings, this affair came to light only because of the denunciation of DynCorp employees, Johnston and Kathryn Bolkovac, until this day no lawful action has been taken against these criminals, in spite of ample evidence, and it’s only the “ whistleblowers “ that have been fired, so there was no actions taken by the UN and DynCorp was allowed to continue business with the United Nations.(39)

More recently, there was a fusillade at the exit of a Kosovo prison implicating a Jordanian UN civil police monitor who fired against DynCorp’s employees (contracted by the UN) which killed two of them and wounded 11 others.(40) Affairs linking PMCs to peacekeeping missions are more numerous, the SkyLink example proves that it is necessary to monitor firms contracted by UN, so the

United Nations Global Marketplace (UNGM) can't handle alone such a complex issue ; specific tools have to be implemented to monitor the compliance of such companies with the international norms (Human rights, international laws..). (41)

06/ Are PMCs Capable of Doing Peacekeeping Well ?

Given the overlapping functions that PMC and UN peacekeepers have performed in the past, and taking into consideration that PMCs have been occasionally hired by both major powers and the UN, it is possible to conclude that PMCs have a power capacity to perform at least some of the peacekeeping functions but the mere existence of capacity to do something does not automatically guarantee the delivery of desired ends, in addition, it is necessary to determine whether PMCs also capable of performing these functions in a way that is consistent with the primary objectives of the UN.(42)

On this issue, there is little agreement among experts in the field, for “ there is no universally accepted criteria for evaluating particular peacekeeping operations “, in part this derives from a lack of consensus about the objectives of peacekeeping : “Often characterized as peacemaking versus peacekeeping, the question really turns on expectations about the goals interventions ought to accomplish. Are outside troops simply and maintain a ceasefire, or should they be active agents in rebuilding civil society and with that, effective state authority? “ .(43) This lack of agreement complicates the already daunting task of examining the PMCs track record, thus, instead of applying an arbitrarily selected set of criteria to determine whether PMCs are capable of doing peacekeeping well, this section surveys the key arguments for and against the use of PMCs in peacekeeping operations.(44)

Some of the most powerful arguments both for and against the use of PMCs are economic, so all opponents point out that PMCs are first and foremost motivated by profit rather than being genuinely interested in the security or stability of those conflict-ridden states in which they intervene, this may cause a whole range of practical and moral dilemmas, and with regard to the former, as Singer notes the integration of a better paid private force within a larger UN

peacekeepers, ‘which could risk suboptimal outcomes on the ground’.
(45)

Steven Brayton, for example, has alleged that operations by PMCs are successful only if their objectives are limited and inexpensive to attain, and if PMCs operate according to the basic principles of UN peacekeeping, their effectiveness and economic viability would significantly decline.(46) Others argue that PMCs operations may be both less expensive and more efficient than their UN and/or regional counterparts, for example, Herbert Howe contends that:

**“Private forces can start up and deploy faster than multinational
(and perhaps national) forces, and may carry less political
baggage
especially concerning casualties, than government militaries.
Accordingly
they have a clear chain of command, more readily compatible
military
equipment and training, and greatest experience of working
together than
ad hoc multinational forces. They may be financially less
expensive than
other foreign forces. Finally, they can handpick from a pool of
proven combat
veterans”.**(47)

Other experts point out that it is unfair to criticize PMCs for their failure to deliver long-lasting peace in failed states because “they never claimed that was what they were trying to do”.(48) Moreover, it can be argued that UN and regional operations that aimed to deliver long-lasting peace in the 1990’s had failed as well, thus as Taulbee points out, it is important to keep in mind that PMCs are not independent agents of social change :

“They can ensure correct conduct in their own operations but the quality and extent of the order established can be little better than that desired by their employees... if a government cannot utilize the respite gained to solidify its legitimacy and power base, the employment of outside assistance will have accomplished nothing of long term consequences”.(49)

Perhaps the major concern with using PMCs has to do with their accountability those who oppose the use of PMCs argue that mercenary groups, once in a conflict area, are difficult to control and barely accountable, and at the moment, no international regulatory scheme exists to bring the operations of PMCs under the authority of international law. Thus, either the laws of the state where the PMCs is based or those where the PMC operates must apply, and the problem with the former is that PMCs can easily relocate to off-shore locales or to states with more relaxed regulations, so the problem with the latter is that both peacekeeping and PMC operations mostly take place in states where absence of the rule of law tends to be the norm, making legal oversight from his source unlikely.(50)

Critics have indeed reported in great detail on cases of gross human rights violations committed by PMCs in their past non-peacekeeping operations, and perhaps the best documented case in a peacekeeping context concerned a US-based PMC contracted to train the Bosnian police which was implicated in a grin sex slavery scandal, with its employees accused of rape and the buying and selling of girls as young as 12.(51)

Although the site supervisor even videotaped himself raping two young women, some of the employees implicated in sex crimes and prostitution rackets were ever prosecuted, and they were spirited out of Bosnia, away from local authorities and perhaps most alarmingly, the company first threatened, demoted and later fired the employees who had ‘blown the whistle’ on these criminal activities.(52)

Conclusion :

Finally we can say that Private Military/Security Companies played a role in peacekeeping missions in armed conflicts zones with collaboration of United Nations Organization, although of that its role is not considered as satisfactory in regarding of its colossal materials and capacities.

In other side, Private Military/Security Companies tried to decorate its image on what made as human crimes in some armed conflict zones.

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