

Forum: *General Assembly First Committee (Disarmament and International Security)*

Issue: *The regulation of private military contractors*

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Position: *Deputy Chair*

Introduction

The usage of private military contractors has always been a very controversial topic throughout the history of the United Nations (UN) due to their ability to bypass international conventions. The UN, especially after the decolonization period of Africa during the mid and late 1900s, has been closely following the usage of mercenarism. While mercenarism does not directly correlate with private military or security contractors, 35 countries of the UN have ratified the General Assembly Resolution 44/34 (**A/RES/44/34**), officially known as *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*, which defines private military and security contractors as mercenaries in Article 47, “a” and “b” on the actual convention.

Though the UN was publicly against the usage of private military contractors, the UN had also seen success working with these people. Private military contractors had seen many instances of success in many of the UN peacekeeping missions such as the ones in Sierra Leone and Angola. The UN’s necessity for these contractors could be further seen in recent missions in which poorly trained UN peacekeepers are failing to accomplish their missions compared to older missions where professionally trained personnels in the private military contracting industry handled the tasks swiftly. This then calls into question the viability of the usage of private military contractors seeing as they are an effective force that could aid and regulate peace within regions very successfully.

While some countries are against the usage of private military contractors, most countries, namely the countries who have large militaries such as the United States, China, etc., do not agree with (**A/RES/44/34**). Although there are multiple reasons as to why they would decline this resolution, one of the main reasons is the military-industrial complex within these countries. The military-industrial complexes within countries is also one of the main factors as to why countries are very reluctant on banning the usage of private military contractors.

Definition of Key Terms

Private Military Contractors

Private military contractors are staffs of private military companies. Though these contractors are usually provided as armed services to the government of the country, they could also be recruited as bodyguards for important personnels.

Geneva Convention

The Geneva Convention is a convention that consist of four treaties and 3 other protocols that is ratified by 196 nations. These treaties and protocols aim to establish rules and standards of international law regarding humanitarian treatment during wars. This convention has been revised multiple times since 1864 and fully came into effect eight years prior to the second World War. This convention only concerns about the humanitarian standards of war and does not set the standards for the limitation of weapons for warfare and other aspects of war that are not related to humanitarian treatment. However, this convention does not specify the definition of mercenaries. Therefore, many of the rules are not applied to private military contractors.

Mercenarism

Mercenarism is the actions of a person who fights for others in order to gain personal profit. Though the practice of such actions is legal in some countries, these types actions have very strict rules regarding how many people one may hire and what kinds of weapons they may carry. The use of mercenaries are also considered illegal in warfares according to the Geneva Convention. However, many of the countries do not recognize private military contractors as mercenaries.

Military-Industrial Complex

The military-industrial complex refers to the alliance between the government of the nation with the nation's arms industry. Arms industry, in this case, may include the production of arms, associations regarding arms, such as the National Rifle Association (NRA) in the United States, and private military and security companies. This cooperation between the government and the arms industry in their nations are highly used in weapon-exporting countries like the United States because it benefits both the government and the industries.



Caption #1: This graph shows the iron triangle present in most democratic countries, most notably the United States.

Background Information

History of private military and security contractors

The history of private military contracting companies began with David Stirling when he founded one of the first private military contracting companies, WatchGuard International. It is important to note that this company is a private military and security companies and does not associate with mercenarism. Mercenaries, though doing similar jobs, are not the same as private military contractors. One major differences between private military contractors and mercenaries is loyalty. The loyalty of private military contractors are towards the private military company, whereas the loyalty of mercenaries vary from whoever profits them the most. These definitions, however, are very inconsistent and would cause major issues when identifying whether the person is a private military contractor or a mercenary. This is a very serious issue because the definition of the two terms could decide whether or not the person's actions are legal or a violation of the Geneva Convention.

The Geneva Convention

While fighting wars, human rights are often ignored due to the nations' determination to fight the wars. This is one of the reasons why the Geneva Convention is such an important convention. It covers and protects the humanitarian rights of combatants, civilians, and prisoners

of war (POW) during hectic turmoils. The convention is also very well respected by multiple countries as many of the violators have been convicted of crimes against humanity. The Geneva Convention relates to this topic because it specifies that the involvement and imprisonment of mercenaries during warfare are strictly prohibited. Though it does specify the definition of mercenaries within its articles, the terms are not up to date and private military contractors, although doing similar jobs, do not classify as a mercenary. This allows private military contractors to continue conducting acts that are illegal if done by mercenaries.

UN's use of private military contractors

Even though the use of private military contractors is very controversial, the UN also had its fair share of relationships with the companies providing these contractors. This is mainly because the act of recruiting peacekeepers from multiple different nations could be a very complicated and time consuming process. Due to the fact that the countries have to voluntarily send troops for the missions, it would usually take huge amounts of time for the UN to gather enough troops for its missions. On the contrary, private military contractors have years of experience in battlefields and other combat situations and could be recruited by masses. This, of course, gives the UN an incentive to recruit private military contractors instead of waiting for countries to send peacekeepers. Moreover, the importance and convenience of private military contractors could be seen in the failures of peacekeeping missions without these contractors such as the peacekeeping missions in Somalia and South Sudan.

Private military contractors today

Due to private military companies' disputed nature, their presence is still very common in most countries in the world today. While they may not have the best impressions with the public, their alliance and cooperation with their governments is still steady. The influential people in the arms industry would often donate large sums of money to the governmental candidates that favor the arms industry. In return, when the candidate is elected, the cooperation between the government and arms industry would increase. This system exists in many of the political system of different nations and would eventually create military-industrial complexes within the countries. While it does cause controversy, the usage of private military contractors does see its successes and failures in recent times. For example, they are used to reduce the number of national troops in international warfare. In 2017, President Trump has substituted some of the US soldiers stationed in Afghanistan with private military contractors. While the tasks the contractors are doing may be violating certain aspects of the Geneva Convention according to some countries, we could see that the implementation of these contractors are still widely used.

The Abu Ghraib torture and prisoner abuse

The Abu Ghraib torture is one of the reasons why public military contractors have a bad impression with the public. This event occurred during the United State's conflict with Iraq. The crimes includes rape, torture, and multiple violations of human rights according to the Red Cross, Amnesty International, and many other organizations. While this event is often credited to the US army and the Central Intelligence Agency (CIA), it is important to note that private military contractors were also involved the this incident. Wlth research and information given by the US military, the evidence shows that the private contractors of the companies Titan Corporation and CACI were involved in 36 percent of the torture incidents in the Abu Ghraib Prison. While there are plenty of evidence to the crime, none of the private military contractors involved were ever prosecuted. This led to a horrible public view on private military contractors in general.

Formation of military-industrial complex

Though the military-industrial complex could be beneficial to the governments in multiple ways, it creates a loophole that strengthens the private military companies within the nations. While the issue mainly focuses on the United States, all other countries have this relationship with the arms industry on some degree. Military-industrial complexes will not only force the nation to gradually spend more of its federal funds on arms, it also would foster the cooperation between the government and private military companies. US President Eisenhower, a former military combatant, warned about the military-industrial complex and how it would have a corrupting influence. This comes to show that industrial-military complexes, though seem beneficial to everyone at first, would cause an everlasting issue within the countries cooperation with its arms industry.

Key Issues

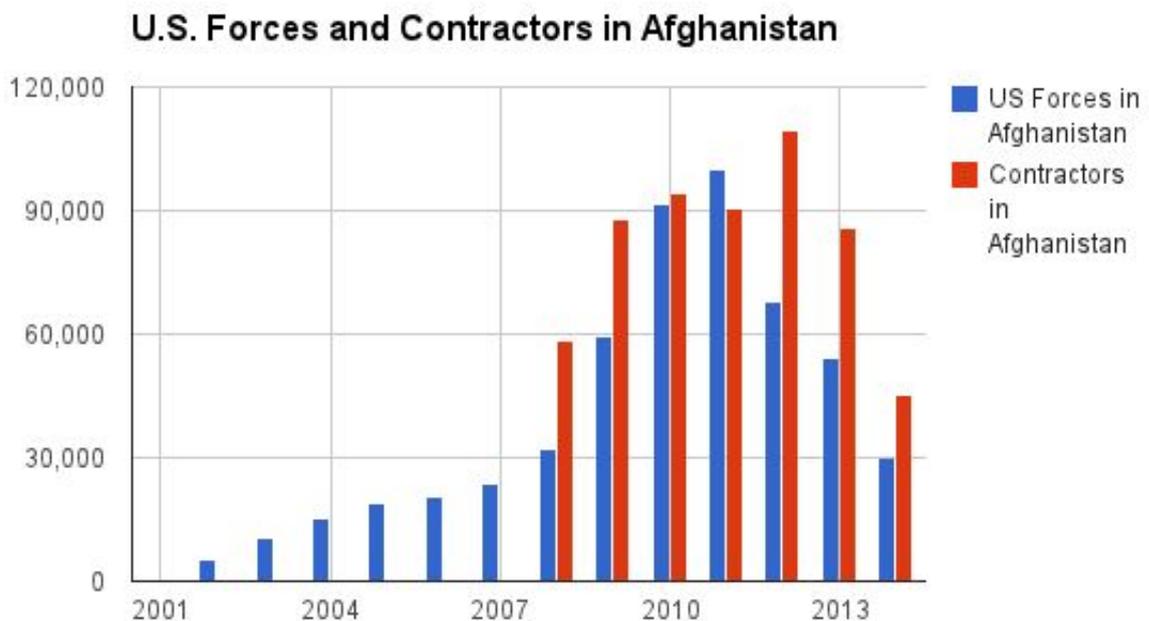
Defining the words "private military contractors"

Even though mercenaries and private military contractors are very similar in nature, the definition of mercenaries and private military contractors are very vague and it causes many problems in terms of warfare. People often argue whether or not the combatant is lawful or unlawful. As of today, 35 nations recognize private military contractors as mercenaries and are, therefore, considered as unlawful combatants in war. However, other nations, do not have the same view on the topic and allow private military contractors to be used in instances of war. However, the Geneva Convention do outline that the private military contractors could not directly take sides during warfare. Therefore, their jobs in war are mostly to protect the innocent civilians against unlawful attacks. Nevertheless, this begs the question, should protecting the civilians against a certain group considered as direct participation in war. If so, they

fall under the jurisdiction of the Geneva Convention and are unlawful combatants. If not, their actions will be deemed lawful.

Private military contractors' roles in warfare

The role of private military contractors during warfare vary from protecting the civilians from unlawful attacks to maintenance and repair. They are only allowed to go in combat when they are in danger and need to perform self defense. However, this causes controversies because there is little to no enforcement of these rules. During war, people would not know whether or not the combatants are US soldiers or private military contractors. Therefore, this flaw in lack of law enforcement is often abused by falsely listing the occupation and purpose of the hired private military contractors and use them in actual combat. However, despite their disputed roles, their presence during warfare could be extremely helpful and legal if not used with the wrong intentions.



Caption #2: *This graph shows US' usage of private contractors in the Afghanistan War*

The lack of comprehensible legal documents

While there are detailed laws and legal documents trying to tackle this issue, these documents and treaties are often extremely vague or irrelevant. This is mainly due to the military-industrial complexes in countries. The military-industrial complex allow the arms industry to have some degree of power over the government. By having this sort of power, the arms industries of the various countries could one day have enough power to veto UN resolutions. This is one of the reasons why there is only one major UN resolution about this topic and why only 35 countries ratified it. Moreover, the lack of

comprehension and active amendments in documents like the Geneva Convention shows the unwillingness of countries to tackle this issue.

Montreux Document

The Montreux Document, officially known as “The Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflicts of 17 September 2008”, is a document proposed by the Red Cross. Though this document is non-binding and mainly contains recommendations for the private military companies, it does set an international standard for the obligations of such companies. Currently, it has been ratified by 17 countries, three of which includes the United States, France, and The Republic of China. The contents of this document has also been further implemented in UN resolutions.

The implications of military-industrial complexes

As warned by US President Eisenhower, military-industrial complexes, especially the one in the United States, would cause huge troubles in the near future regarding the decision making of the country as a whole. Military-industrial complexes not only allow the arms industry of the country to gain more governmental power, it would also force the government into an arms deal spiral where the arms industry gained so much power that the government needs to do what the arms industry want at any given time. This would not only hinder the country’s development, it would also skew their views on this particular topic seeing that the topic at hand is directly against the interest of the arms industry, especially private military contracting companies.

The lack of regulation methods

While there may be legality issues within the usage of these contractors, the lack of regulation also poses as a big problem to this issue. Due to the fact that these contractors are all technically employees of a private company, each company is subjugated under the laws of the nations they are based in. This, in the long run, creates many problems as the contractors could operate in less economically developed nations where the regulations are not as strictly enforced as the ones in their original country. Moreover, the accountability in the regulations regarding private military contractor also often cause missions to fail and scandals to be conducted under the radar. Overall, the lack of international regulation and accountabilities of the enforcements of laws due to scandals and failed missions creates a big problem in the issue of the usage of private military contractors.

Major Parties Involved and Their Views

United States of America

The United States is heavily related to this issue due to their relations with their arms industry. Due to the military-industrial complex, and the second amendment of the constitution, the American arms industry control major parts of the US government, causing United States to be heavily in favor of the usage of private military contractors. However, in modern situations today, the government's cooperation with these companies often only include surveillance, transportation needs, or other maintenance. This means that their use of military contractors in field is not as prevalent as before. While this may be because of the decrease in number of military deployments made by the United States, it may also be because of multiple military incidents. Despite these actions, the US government is still heavily tied with private military companies as seen in the Military Commissions Act of 2006 where the laws of this act only apply to military combatants (army), rather than all combatting personnel. Dyncorp is also a major actor in the US. Dyncorp is a Virginia based private military company which provides military and technical support to all branches of the US Armed forces and other governmental entities across the globe. While Dyncorp is accused of many crimes ranging from sex slave trafficking to tax evasions, this private military company is still being supported by the US government with billion dollar funds. However, with recent regulations, Dyncorp's contracts with the United States government are slowly being repealed.

China

While China has the largest military in the world in terms of manpower, their government do not seem to regulate much of the actions of the the private military contractors. DaWe, one of the largest private military companies in China, is heavily involved in the South Sudanese Civil War. Due to the fact that China is one of South Sudan's largest donor/ally, Chinese involvement in this civil war is not very surprising. The reason why China endorses these actions is because of the indirect involvement of the Chinese government in foreign situations. Because these are "private" companies, the Chinese government could use these companies to create political advantages in different countries without having as much criticism in the international community since these private companies are technically not controlled by the Chinese government.

United Nations (UN)

The UN's view on this issue have always been a peculiar one. Though they do want to clarify the meaning between private military contractors and mercenaries, they could not really do so due to their intense usage of them during the late 1900s during peacekeeping missions. This is mainly due to the fact that the UN was promoting the decolonization of Africa during that period. This is why they need as much

resources as they can get, hence the usage of private military contractors. However, after the decolonization period, they tried to separate themselves from the military companies. The peacekeeping missions after that soon failed due to the lack of training for peacekeepers from individual countries. This puts them in an awkward state where they do not want to utilize private military contractors, but it has been proven a very successfully way to tackle many of UN's problems.

Syrian Arab Republic

Due to the multiple international interventions in the Syrian Civil War, many private military contractors have been used in Syria. Naturally, Syria is against the usage of private military contractors as it had been used to help create more chaos in its country. However, the usage of private military contractors by countries like Russia had not decreased over time. Throughout the war, Russian private military companies have been known to train and arm the soldiers that are fighting for the Syrian regime. The contractors, though against the Syria's policy, as they had signed and ratified the United Nations Mercenary Convention, helped both Syria and other countries enormously. The other countries could decrease in the number of troops present and Syria could still get the support they need by having the help of private military contractors.

Timeline of Relevant Resolutions, Treaties and Events

Date	Description of event
1929	<p>First Official naming of the Geneva Convention</p> <p>On this day, the Geneva Convention was first named by revising the "Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field."</p>
December 4th, 1989	<p>The Creation of the United Nations Mercenary Convention</p> <p>On this day, the General Assembly of the United Nations met together to debate about the definition of mercenaries and whether or not private military contractors should be listed in the definition.</p>
2003	<p>The Abu Ghraib Torture and Prisoner Abuse</p> <p>During this period of time, US forces, CIA agents, and multiple private military contractors conducted torture and prisoner abuse during the Iraq War.</p>
October 17th, 2006	<p>Military Commissions Act of 2006</p>

On this day, the United States incorporated the content of the Geneva Convention into laws for US soldiers.

Blackwater Massacre

September 16th, 2008 On this day, employees of the Blackwater private military company shot Iraqi civilians, killing 17 people.

Relevant UN Treaties and Events

- International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 4 December, 1989 (**A/RES/44/34**)
- The Geneva Convention, 1949 (**A/RES/69/100**)
- Montreux Document, September 2008

Evaluation of Previous Attempts to Resolve the Issue

The UN and multiple other nations have not been eager to solve this issue regarding the definitive definition of mercenaries. This is mainly because of their symbiotic relationship with the arms industry and their predilection of cooperating with them. Though this may create controversy with the public, it greatly benefits the economy, military, and government of the country. This is why little to no country ratified the International Convention against the Recruitment, Use, Financing and Training of Mercenaries due to their definition of mercenaries. Moreover, with the UN slightly in favor of the using of these contractors, there are little to no action in terms of trying to resolve this particular issue.

Possible Solutions

One of the most efficient possible solutions is the improved enforcement of the occupations of private military contractors on the battlefields. Since there is little to no law enforcements during operations, non-governmental organizations (NGOs), could be used to monitor and collect disclosed data. This would not only ensure that the data will be safe from any other countries in case of military secrets, it would also allow for the enforcement of law on the private military contractors. Moreover, a discussion between nations regarding what private military contractors can and cannot do in warfare could also be a way to set a boundary. Since the Geneva Convention binds these contractors to “not directly take sides,” this broad statement could be interpreted in multiple different ways. By discussing

and confirming the details of what private military contractors could do, it would help cope with legal problems in the future.

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