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The Army of Tomorrow:

Private military and security companies' contribution to the military and security landscape

This paper was drawn up by Ms. Oana-Mihaela Mihalache, European Defence Researcher, under the supervision and guidance of the Head of the Permanent Secretariat.

This Food for Thought paper is a document that gives an initial reflection on the theme. The content is not reflecting the positions of the member states, but consists of elements that can initiate and feed the discussions and analyses in the domain of the theme. It was drafted by the Permanent Secretariat of Finabel.

TABLE OF CONTENTS

Introduction	3
Historical Background of Mercenaries and PMSCs	4
- Mercenaries of the Past	4
- PMSC, Between Contracted Mercenaries and Corporations	5
Legal status of PMSCs	6
- The legal distinction between mercenaries and PMSCs	6
- Legal definition of PMSCs	6
- Scholars definitions of PMSC	7
The benefits of the use of PMSCs by the military, politics and the international community	8
- The use of PMSCs by the military for non-combat operations	8
- The use of PMSCs and the politics of combat operations	8
- The use of PMSCs by the international community for humanitarian operations	9
Challenges that need to be solved	11
- The sovereignty dilemma	11
- Responsibility	11
- The Private Choice	12
- Absence of an Oversight System	13
- Recruitment and Marketing Strategy	13
- Public Opinion	14
- Failures and Abuses	14
Conclusion	16
Recommendations	17
Bibliography	18
- Books	18
- International Treaties and Conventions	19

INTRODUCTION

'We make American military doctrine', Ed Soyster, MPRI.

Over the last years, and particularly since the fall of the *Iron Curtain*, the security sector has been shifting from state-centred monopoly towards a variety of non-state actors including the private sector and its massive corporations. Private Military and Security Companies (PMSC) have been operating on the combat field in the name of state actors, for economic profit. They have been providing services in multiple areas of expertise such as logistics, consulting, intelligence gathering, training troops and for providing humanitarian security. These commercial entities have become part of international public governance. Although nations remain at the core analysis of International Relations theories, the emergence of these private entities in the international security sphere requires specialists to rethink the relationship between global and local order (Abrahamsen and Williams, 2007).

The Coalition of the Willing, led by the United States of America (US) in the Iraq War in 2003 is probably the most emblematic illustration regarding the role of PMSC in today's security and military landscape. In the field, the ratio between contractors and military personnel reached 1:1 by 2008 (Pattison, 2014). The dearth of effective regulation regarding PMSC provided liberty for the Bush Administration to hire and incorporate PMSC in the White House in order to fulfil US national interests and win the war. Nevertheless, questions are being raised on how this phenomenon is changing the military landscape and the way public administrations employ and unleash force. Questions about military capabilities and skills provided by these companies remain as yet unsolved by academia. These companies and the administrations that hired them, lack transparency in their recruitment strategy and contracts.

Therefore, this paper originated from the concern that PMSC have become fully entitled actors capable of projecting their military and security capabilities and interests worldwide. The focus area will remain the European continent, and the recommendations formulated at the end of this paper will only apply to this specific geographical zone. This research will try to analyse how PMSC can still provide positive benefits for national administrations, the military and international humanitarian organizations and will illustrate the current challenges that need to be solved in order to ensure an inclusive and transparent process in the use of PMSC by national states and organisations.

If entities have the power needed to conduct a war in more efficient ways than national militaries, the justice system needs to seek ways to regulate and control PMSCs. The state, namely the military and government need to make better use of these corporations. With the decline of military spending all over the world, nations are obliged to rely on those actors to project their military and security capabilities. Furthermore, following the current views of war, society questions the morality and ethics that surround PMSCs. For the public administration, however, it is undeniable that at times it is more convenient and efficient to hire private corporations. Policy-makers can obstruct the democratic process, denying responsibility for their country's actions and contributing to the development of hybrid war techniques (Dau, et al., 2018). PMSC have taken advantage of current geopolitics and their use has definitely responded and adapted to changing war techniques, contributing to the change themselves. Nevertheless, a strong legal framework in national and international jurisdictions is needed to establish the rights, duties and limits of these entities.

Following the structure of this paper, the first section will present the history and development of private contractors and companies. The second section will establish the legal definition of PMSC and will look at the conclusive characteristics of these corporations. The third part will analyse how PMSCs can benefit the military, political administrations and international humanitarian organizations. Lastly, the challenges faced by the international community regarding PMSCs will be discussed. As mentioned above, following the conclusion, recommendations will be made and addressed to the European security stakeholders.

HISTORICAL BACKGROUND OF MERCENARIES AND PMSCS

To have a better grasp of PMSCs, it is crucial to understand the context in which mercenaries were first used by state powers and analyse how Private Military and Security Corporations gained credibility, eventually becoming a major tool in military strategy.

Mercenaries of the Past

In 1513, Machiavelli wrote in *The Prince* that mercenaries are “useless and dangerous (...) disunited, undisciplined and treacherous. During peace time they will despoil you, in war time they will leave you face destruction at the hands of a hostile enemy”. By analysing Machiavelli’s statement regarding these type of warriors, academia has come to the conclusion that mercenaries have never been accepted and well treated by the authority in charge and its military, however they were nevertheless needed to increase manpower, seen as a means to an end, a necessary evil to achieve the desired outcome. They could not be trusted, nor given crucial positions or responsibilities (Pattison, 2014).

History has proven that *mercenaryism* was among the first professions that men executed. To increase manpower and win wars, tribes, kings or monarchs needed to optimise their capabilities. In exchange, mercenaries would receive financial compensation. They were motivated by profit alone, not driven by patriotism or the call of duty (Pattison, 2014).

The first written financial contract between a mercenary and a state structure is dated (Gulam, 2005) from 1270 under William the Conqueror, King of England. During his reign, he normalised the use of contract mercenaries. However, often mercenaries represented trouble and could worsen the battles they were in at the time.

In Italy, another factor fed into this trend. In the 16th century, at the time when Machiavelli was writing his famous work, *The Prince*, wealthy Italian families wished to ensure the lives of their members and progeny, and were employing mercenaries to fight battles on behalf of their houses (Gulam 2005).

Across the ocean, for ethical and strategic reasons, the use of mercenaries was banned in the late 18th century. After watching the American Revolution tear apart the British colonies by using mercenaries, the Americans questioned the efficiency of their use. Furthermore, while building their nation creation story and their modern state, admitting the use of mercenaries was perceived as the country’s lack of ability to win a war on its own.

In the past, mercenaries were considered a moral disgrace and their use was often compared to the practice of slavery, as it was perceived as another form of trade in human lives (Percy 2007). This image was even further worsened during the post-colonial era in Africa where mercenaries were found to have breached multiple International Law and Norms and carrying out widespread and hor-

rific human rights abuses. Due to these abuses, *mercenaryism* is now considered illegal by the International Community. However, their function has now been transferred to Private Military and Security Companies.

PMSC, Between Contracted Mercenaries and Corporations

The end of the Cold War, the polarisation of threats, actors and an increase in globalisation, forced nations and their militaries to adapt to the neoliberal trend of privatisation of the public sector. Furthermore, with the decline in military power all around the globe, privatising the use of force became another tool for states to protect and project their power, military capabilities and crisis-management tools. During the First Gulf War the ratio between

contractors and the military was 1:1000 (Partison, 2014) while it reached 1:1 in 2008 during the Second Gulf War with 163,000 contractors deployed in Iraq. Therefore, contractors were the second largest armed contingent of the Coalition of the Will.

In early 1990, retiring from the militaries, Eric Prince starts to build the Blackwater empire, currently known as Academi. According to his statements given to the press in 1993, he wanted to create a company for the military which would be like FedEx for the public post office (Scahill, 2008). He created a corporation and broke certain codes of the war. PMSCs are private entities who respond to corporate law. They have a different status than mercenaries and can legally engage contacts with nations worldwide, and provide their combat and non-combat services.



Using the term ‘mercenary’ might be outdated, but the rise of PMSCs shows that nations have continued to fulfil their demand for security services by other means, such as Private Military and Security Companies. Furthermore, this practice is considered to be a new phenomenon which the international community, which various military structures and scholars are still trying to full comprehend and respond appropriately to. The exact definition of PMSCs is still under debate and their legal corporate status remains ambiguous and lacks transparency.

LEGAL STATUS OF PMSCS

Since a clear distinction has been made in the previous section between mercenaries and PMSCs, it is important to question now, the international norms applying to PMSCs, to distinguish the legal differences between PMSCs and mercenaries, and to expose the ambiguity separating the two notions. This section will explore the definitions and international texts delineating these military corporations.

The legal distinction between mercenaries and PMSCs

Mercenaries are commonly defined as individuals fighting in foreign combat for financial compensation. Currently, their use is forbidden under international law due to the human rights abuses in during the post-colonial period in Africa, as we saw before. The United Nations Economic and Social Council (ECOSOC) made a clear distinction between mercenaries and PMSCs, which is considered to stand in compliance with international norms, in the UN ECOSOC4.1997/24 resolution which provides a clear distinction between the legal scope of PMSCs.

PMSCs are commonly defined as corporate entities, offering different military services to a client. Most of the clients are national governments which aim to increase their military impact of a given situation. PMSCs can offer combat and non-combat services such as logistics, intelligence gathering, defensive security services, consulting, and training.

For some nations, PMSCs represent vital military capabilities. They are legal components of the economy as they are registered companies, paying taxes and legally employing personnel. They do not have a fixed number of employees (ranging from smaller family run companies to massive corporations) and function by establishing a network of ex-serviceman of soldiers to hire on the international market. However, their certain aspects of their manner of functioning still remains unclear to the public eye.

Legal definition of PMSCs

Customary International Law establishes that foreign citizens should not be found on a country’s territory unless the national authorities are made aware of this presence; otherwise this would represent a breach of sovereignty. Therefore, International Law pre-UN associates mercenaries to the concept of aggression and, violating the principle of non-interference. Surprisingly, this situation does not apply to PMSCs although they usually operate in the name of governments.

With the Geneva Conventions of 1949 and the Additional Protocol I of 1977, nations decided to disregard the rights and protections given to contractors, meaning that contractors are not entitled to prisoner of war treatment. Therefore, unless the contracting nation recognizes the contractor as a national citizen, contractors will not benefit from the

clauses of the Geneva Conventions and its Additional Protocol I.

After the colonial wars, the African Union signed and ratified the 'Convention of Elimination of Mercenarism in Africa' in 1977 where mercenaries are perceived as a threat to the state's sovereignty due to their use in *coups* and due to their human rights violations.

Given the abuses committed by mercenaries during the colonial wars, the United Nations officially described mercenaries as 'outlaws' in the UN International Convention Against the Recruitment, Use, Financing and Training of Mercenaries in 1989. The burden of punishment is left to the nations who find mercenaries on their territory, failing to take into account that often those nations are unwilling or unable to fulfil these functions due to instability. However, for the first time, this convention recognized PMSCs as legitimate, but only if they comply with national and international law. However, the adopted document lacks a monitoring mechanism to oversee the activities of these private military corporations, in order to ensure that they are indeed complying with international and national law.

Although many documents have tried to identify the different characteristics of the PMSC, the Montreux Document of 2008 has outlined the legal obligations of the contracting states, home states and territorial states when using PMSCs. Furthermore, the document provides the most in depth definition of Private Military and Security Companies so far:

'Private business entities provide military and/or security services, irrespective of how they describe themselves. Military and security services include, in particular, armed guarding and

protection of persons and objects, such as convoys, buildings and other places, maintenance and operation of weapons systems; prisoner detention; and advice to or training of local forces and security personnel' (ICRC, Web)

Critics have debated this definition, although it has become the most commonly accepted version. Critics, among them Pattison (2004), have described it as too broad, with no regard to the international nature of the industry in the eyes of international law.

Scholars definitions of PMSC

As seen in the previous sub-sections (2.1 and 2.2), the legal definitions and status of the term PMSC are unclear, ambiguous and can become exceedingly blurred at times. For these reasons, scholars tend to employ their own definitions and give their own point of view regarding the nature of PMSCs.

Their views will be presented in this section, however this paper will only take into consideration the Montreux Document's definition, following the approach taken by the International Community.

Some scholars (Gulam, 2005) differentiates Private Military Companies from Private Security Companies, by stating that the first provides military services and the other provides for the protection of individuals and property for private and humanitarian stakeholders. Others use stronger words such as 'firms (...) with the potential for use of lethal force, as well as training and advice' (Chesterman and Lehnardt, 2007).

Singer (2003) provides 3 typologies for PMSCs: those who have offensive capabilities (MPRI), military consultancies and training centres (Sandline) and a logistical military.

THE BENEFITS OF THE USE OF PMSCS BY THE MILITARY, POLITICS AND THE INTERNATIONAL COMMUNITY

The use of PMSCs by the military for non-combat operations

Most of the time, PMSCs are not contracted to provide direct military combat services. Often, they provide consultant and logistical services to their contractors (Leander, 2005). The military, by outsourcing these capabilities can concentrate on its own hard power, the combat strategy. Therefore, as military spending has been decreasing in the last decades, outsourcing has been an efficient solution for military institutions, by managing to provide security at lower costs. Some scholars, such as Shearer (1998) even go further in their analysis affirming that PMSCs have indirectly become “weapons [of the] system”. Furthermore, the flexibility of these firms increases the ability for a quicker response to a state’s demand for security and reduces the civilian-military gap (Pattison, 2014) in the military. For instance, their quick reactivity also belies the growth of the private intelligence sub-sector which has been booming in the last few years. For many national administrations and political parties, most of their intelligence capabilities, from analysis to field officers has been gradually outsourced to private firms (Singer, 2003).

To illustrate how a PMSC can provide services for a state and shape the international security framework only by providing non-combat capabilities, we shall look at DynCorp International, one of the oldest and biggest PMSCs providing services for non-combat operations since 1946. This American company is a global service provider with three headquarters on three different continents (the U.S., Virginia; the UAE, Dubai; and the UK, London).

Starting as an aviation supply provider, the corporation is now providing services in six different sectors (DynCorp International, web):

- Aviation providing fleet management and air operation consulting,
- Tactical and strategic intelligence,
- Logistics and contingency operations for governments, private companies and the military,
- Operations and maintenance for ground planning and operating facilities
- Training,
- Solutions for international and emergency markets.

Although the company started with a focus on aviation providing services only for the Air Force it now offers a wide range of capabilities which will not only be of interest for all military branches, but also for state and non-state actors. According to their website, the company ensures that it only serves those who ‘defend freedom and global security’, helping restore ‘peace and stability’ and ‘who make the world a better place’. At this time, the U.S. Armed Forces is their biggest contractor, and they still operate in sensitive zones such as Afghanistan.

The use of PMSCs in non-combat operations is the first step in analysing how nations can benefit from their services, even though the security landscape is evolving due to their use. By outsourcing these capabilities to PMSCs, nations are relying on them to provide services which will contribute to their security policies and therefore shape the security geopolitics taking into account the use PMSCs (Leander, 2005). For instance, when a PMSC produces intelligence, their analysis reflects their understanding of security and not the contracting nation. Nevertheless, the contracting nation can reprocess the intelligence or work directly in cooperation with the PMSC when pro-

ducing intelligence. Contracting PMSCs for non-combat capabilities remains a huge aid for the military in conducting their everyday tasks.

The second step in analysing how PMSCs can benefit contracting nations is to look at the public administrations and the decision-makers who are employing them for combat operation purposes.

The use of PMSCs and the politics of combat operations

Conflicts in 21st century have been characterised by multiple threats, hybrid strategies and widely uncertain and insecure outcomes. With reduced spending and a society refusing the culture of war, many governments have made use of PMSCs to avoid certain restrictions by engaging in a conflict zone without democratic approval of the political party in charge (e.g.: the Congress in the U.S. or the National Assembly in France). Outsourcing the use of force has had an impact on the overall international security scene (Pattison, 2014).

Furthermore, the government has made use of PMSCs to conduct their operations without consulting their citizens. For instance, it is more beneficial for the political administration to choose to contract a PMSC rather than to engage its military in a conflict zone, if the electorate is against the war or if the government is already weakened, unstable and facing high rates of unpopularity. Yet, there is the danger that by using PMSCs for their sole benefit the government can take advantage of the power afforded to them through this, whilst at the same time undermining democratic control.

Nevertheless, PMSCs can be a solution for governments when they want to engage in a

conflict zone but are not willing, or are unable to find the necessary support from International Organizations (such as NATO, the EU or the UN) or other states. Furthermore, contracting PMSCs instead of searching for partners will give the nation the complete authority in regard to conflict strategy and decision-making (Pattison, 2014).

Therefore, governments have created a grey zone which allows them to use PMSCs at their own discretion, deciding on the size and distribution of contracts. Military firms are linked to the state and the Armed Forces. Some scholars such as Leander (2005) raised the question on the private nature of these corporations, as the state has dominant power in their activity. She insists that some PMSCs should even have partial state ownership and she is backed up by Lewis (1998) who suggest that the majority of French PMSCs are already clearly partially owned by the state. Although these statements have not been proven by official government statements or official reports, it remains clear that governments carry out many actions thanks to these companies that would otherwise not be possible, as they would usually require public and democratic approval.

The use of PMSCs by governments is the second step towards analysing how these companies could be of benefit for certain actors today. However, what might be of benefit for national interests and governments also runs the risk of being detrimental for other actors, such as citizens, as these corporations often lack transparency, and thus are also lacking in accountability, meaning the possibility of violations of international and national law increases. The arguments exposed above show how governments these corporations for their own benefit, but it also illustrates that there is a tremendous lack of arbitration, transparency and oversight regarding the use of PMSCs.



However, there is a the third aspect to consider when analysing how PMSCs can be put to good use. Namely, by providing humanitarian security and assistance by helping humanitarian and international organizations with their missions.

The use of PMSCs by the international community for humanitarian operations

International Organizations and non-governmental entities have expanded their relations with PMSCs over the past few decades, responding and adapting to the global challenges. For instance, PMSCs are among the private partners of the United Nations and Doctors Without Borders. They provide supplies, the protection of personnel on the field, logistics in conflict and humanitarian opera-

tions such as the UN mission in Iraq and the International Committee of the Red Cross (ICRC) and the humanitarian interventions in Syria. The UN Secretariat has also hired PMSC consultancy services to plan and design the organisational structure of its peace-keeping department in UNPK (Ostensen, 2013).

Most of the time the protection of international officers and NGO personnel is ensured by PMSCs in conflict zones, as the protection from governments is often not efficient, and is expensive and at times a waste of resources for these forces.

Moreover, PMSCs are more used to anti-piracy operations, especially in Somalia, where the military is inefficient and does not know how to adapt to the this way of operating. PMSCs can specialise in piracy operations without being constrained by the rules of tra-

ditional military operation, able to provide a quick response and adapt to the situation.

However, the problem with using PMSCs in humanitarian operations is if PMSC are armed on the field, they can be perceived by the host population as part of enemy forces or invaders. And this situation applies also to PMSCs providing non-combat support to the Armed Forces. If this ambiguity is created it challenges, in the case of humanitarian operations the notions of impartiality and neutrality of the humanitarian action.

CHALLENGES THAT NEED TO BE SOLVED

Many benefits arise from the use of PMSCs by governments, the military or International Organizations and NGOs. Their use can be a truly positive influence in conflict solving. However, as mentioned briefly in the section below (3.) PMSCs and their contractors encounter slightly important challenges which can pervert the use of these military companies. This section aims to do its best to illustrate the main provocations which can lead to abuses, coming from all stakeholders.

The sovereignty dilemma

The sovereignty, or here the loss of it, has been a strong argument to ban mercenaries. Even now, it remains a dilemma. In *jura regalia* (Latin, 'royal power'), the state has the duty to ensure the following three functions in order to be considered as sovereign:

- the military and police;
- justice;
- money.

The state is traditionally perceived as having the monopoly of force (Percy 2007), PMSCs can at

times be perceived as a threat to the legitimacy and sovereignty of a state (Report to the Commission of Human Rights, UN, 1999).

The dilemma that comes from using PMSCs, also vitally concerns who asked contracted the corporation, who exactly was in charge of giving the orders? Are PMSCs operating on a clear agenda that the contractor has detailed well, or are they following some vague guidelines and deciding on their own?

The relationship between states and PMSCs has been characterised by a lack of transparency and corrupt financial arrangements. From the moment this line becomes blurry and we can no longer establish a clear difference between PMSC actions and state actions, the aspect of sovereignty becomes blurred.

Responsibility

In addition, and therefore linked to the sovereignty dilemma, there remains the question of responsibility. Who is responsible if there are crimes and abuses? Can/will the contracting state take credit for the actions of a private entity? What happens when a state employs PMSCs for illegal operations?

It can be noted that so far, countries have tried to hide behind PMSCs to conduct certain illegal activities, such as securing a rich national resource area or transferring weapons in a conflict region, especially during the independence wars in Africa (Thad, Somalia, etc.). This goes against the principle of self-determination (Gulam, 2005).

The ICRC has established that PMSCs do not follow the theory of a *just war*, *just in bello*, of which all states must comply as it invokes International Humanitarian Law. PMSCs operate following the *just ad bello* theory, which only states the way an entity uses force and

which is currently forbidden by UN norms. This evidentially proves that PMSCs are not held responsible in front of any international entity and do not comply to International Law, as they are not held beholden to it.

It is therefore understandable, that the contracting nation needs to take responsibility for the contract signed with the private entity, especially if their actions have harmed others and abused international and national law and norms. The lack of international regulations regarding this topic shows how states can take advantage of this grey zone to the detriment of international and national laws and norms, potentially undermining the rule of law and thus the very foundations of civilisation.

The Private Choice

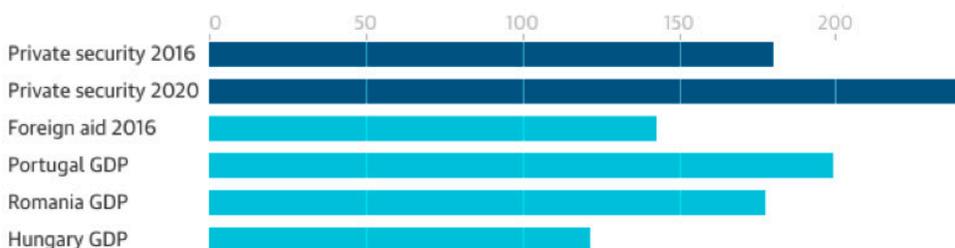
Pattison (2004) establishes the ethics in contracting PMSCs. In his research he illustrates the 'Theory of the Private Choice' (2014:92). PMSCs are private companies. They operate on the market according to the law of supply and demand. Their ultimate goal is the optimisation of profit. Therefore, at any time, the contractor can choose whether to conduct a mission and sign a contract depending on whether the offer is attractive.

Although this reasoning is logical and accurate if transposed to the corporate world, it is quite different when applied to the state geopolitical level. To illustrate this argument, we will go back to 1992, when the United Nations Operation in Somalia (UNOSOM) asked DSL, a private military corporation to deploy 7,000 people of its personnel to conduct a humanitarian operation. The company refused the offer, as they did not consider it to be beneficial, which resulted in the loss of humanitarian delivery capacity and the death of hundreds (Pattison, 2014).

PMSCs can also argue certain clauses of their contract, depending on the situation of risk, thus they can refuse to comply to a mission, something which the military is, unable to do. 'The theory of the private choice' shows there's an inequitable distribution of force on the market.

Today, in the UK the number of security workers outnumbers public police officers: in 2015 232,000 private guards were employed in contrast to 151,000 police officers. PMSCs are contracted more and more, gaining profit through these security and military operations. In 2017, the industry was estimated at 180 billion USD and is projected to grow to up to 240 billion USD by 2020. Their prof-

Global spending on private security compared to global aid budget to end poverty and national GDPs, \$bn



Guardian graphic | Source: Freedonia 2017; OECD 2017; World Bank 2017

it is higher than the total international aid budget to end poverty in 2017 and is higher than the GDPs of more than 100 countries including Portugal, Romania, and Hungary (The Guardian, 2017).

Absence of an Oversight System

Due to PMSCs, there are clear inequalities existing in the market for armed forces in the international scene (Pattison, 2014). Followed by the non-existent system of control, oversight, accountability and a fair and open bidding process, some contracts are awarded to non-competitive companies which have little experience.

Furthermore, PMSCs contracts are not regulated by fair bidding and clear supply and demand law, as states will often engage with companies they have previously worked with, and who already have national security clearance for their personnel as well as the required experience (Ramirez and Wood, 2018).

Following the events in early 1990 in Bosnia and South Africa, where the use of PMSCs saw a considerable boom, countries with a long history in regard to these companies started to put into place some regulations to prevent corruption of contract bidding. For instance, South Africa passed a 'Regulation of Foreign Military Assistance Act' where the government required PMSCs to be licensed under the National Conventional Arms Control Committee in order to propose their services. The U.S. has also made it clear through Army Regulation (AR 715-9 'Contractors Accompanying Force' of 1999 that contractors cannot perform without the direct order of the military officer in charge (Gulam, 2015).

However, these regulations are still insufficient as there is no democratic control of the bidding process.

Recruitment and Marketing Strategy

PMSCs present themselves as conventional private entities, military actors and humanitarian stakeholders all at once (Brendtsson, 2011). By providing a wide range of services, and having extremely varied clientele, they have created multiple identities depending on who they are addressing (Singer, 2003). Therefore, PMSCs can be disguised through a powerful marketing strategy, in order to increase their clientele base and thus their profits.

Their recruitment strategy is also based on a strong marketing campaign trying to attract qualified personnel. As with many other entities, social media has reshaped the industry which now recruits directly online, chasing potential candidates on these platforms (Dau *et al.*, 2018).

Based on an analysis provided by Dau *et al.* (2018) in regard to online marketing strategies of PMSCs, we realise that each company relates to a different public depending on who they want to recruit. For instance, DynCorp is a more traditional, less transparent PMSC with a less appealing marketing strategy. They aim to attract traditional, conservative citizens, older and often Republicans. Companies such as CACI on the other hand have a more subtle campaign, appealing to women and minority groups. This marketing campaign aims at triggering the entrepreneurial sense of the client, or potential employee. It also shows that CACI has a diversifying strategy. Even though those two online campaigns seem different, in the end both companies offer similar services and employment opportunities. They both use Twitter as their main advertisement tool. Both are identified as agents of the state, who promote freedom, and security worldwide. They present themselves as protectors, making the client feel that they are indispensable for solve conflicts and protecting citizens.

Public Opinion

Public opinion has been critical of the use of PMSCs for multiple reasons. First, it is a phenomenon that often citizens do not understand. The lack of transparency in the field is also an obstacle for gaining positive public opinion. Governments are not providing any relevant information on how they are contracting PMSCs and for which purposes. The questions of who should fight wars nowadays is becoming more and more relevant (Brunstetter and Holeindre, 2018). The use of PMSCs represents a shift in the way nations are conducting foreign policy and implementing their security strategies (Singer, 2003). If governments are relying on PMSCs to project their foreign policy, the least they could do is raise awareness among their citizens, so that they understand the process. Second, this phenomenon has often been mediatised for its human rights abuses. Therefore, most arguments and facts that citizens have received on PMSCs have been associated with an overall negative image meaning that often the public does not trust those corporations (Ramirez *et al.*, 2018). This phenomenon has not been well discussed in the public sphere.

Furthermore, in order to try and comprehend public opinion towards PMSCs, Ramirez *et al.*'s (2018) study helps to identify the criteria that shapes public opinion in favour or against the use of PMSCs. The study, called 'Public Attitudes toward public military companies: insights from principal-agent theory', published in the *Journal of Conflict Resolution* in early 2018, looks at the public opinion of the use of PMSCs in both combat and non-combat operations coming from the U.S. population. The conclusion that strikes the authors in this study is that citizens are more likely to accept the use of PMSCs for non-combat operations such as logistics or infrastructure. However, if they had the choice,

they would rather use the military to conduct these operations. A pattern was established for those found to be the most in favour in the use of PMSCs in combat operations: catholic, Republican, Caucasian, male, and pro-intervention. Therefore, personal political opinion influences personal opinion regarding the use of PMSC.

Failures and Abuses

As mentioned in the sub-sections above, the lack of proper regulations has created a perverse effect on the use and image of PMSCs. In this sub-section I will illustrate some of the abuses committed by PMSCs which were contracted by states and the consequences to their illegal actions. Often PMSCs have been able to avoid being held accountable. For instance, in Afghanistan, they developed a 'culture of impunity' (Krahmann and Friesendorf 2011:28). By this, they managed to violate civil humanitarian rights without fear of being reprimanded as Afghanistan itself did not have any laws regarding human rights abuses. The same situation was revealed in Bosnia where a DynCorp contractor filmed himself raping a Bosnian girl, however charges were not brought, as no regulation was in place regarding the use of PMSCs (Gulam, 2005).

Furthermore, even when charges are brought for crimes judged outside the conflict zone, they often fail as well to bring justice. For example, a considerably corrupted situation was identified after a PMSC set fire to civilians in the centre of Bagdad in September 2007. Blackwater was prosecuted by the U.S. Department of Justice, nevertheless, the case was dismissed due to lack of evidence (Human Rights First, 2008).

The way these situations are handled by the International Community which so far has often remained silent and by the nations who

try to bury the crimes of PMSCs is one of the main problems faced by the use of PMSCs today. The examples stated below are just a small part of what is happening overall.

As seen through this paper, I have defended the use of PMSC as they can contribute to security and help governments increase their military capabilities. However, without setting a precedent on the abuses and failures arising from employing PMSCs, holding them accountable, these companies will not improve and hence nor will the public consent on this matter. After looking at the arguments on the use of PMSCs, there is evidently the need for governments to assume they're shared responsibility in the actions of PMSCs, whereby they must regulate their use and proceed with more transparency.

CONCLUSION

To conclude, with this analysis, I have tried to illustrate a way for PMSCs to be at the service of Armed Forces. The different arguments we have looked at above have exposed the nature of PMSCs, their challenges as well as the challenges faced by all stakeholders of the use of force.

The first lesson learned is that public administration has always looked for men to fulfil their manpower to achieve their goals in a given situation. PMSCs can be a great advantage for nations, in combat, non-combat and humanitarian actions. They can provide extra support by providing security services to humanitarian workers; they can assist with logistics and consulting services for the Armed Forces and can eventually be sent to a sensitive area to provide combat operation services, always in compliance with international law and norms.

Secondly, the International Community needs to go over the definitions and establish a clear framework. At this stage, as the definitions and norms remain ambiguous, it is difficult to exactly qualify the functions of a PMSC. Therefore, it is almost impossible for an International Organizations to create legal compulsory measure for states and companies.

And the last lesson that stands out in this paper is that although PMSCs can contribute to the use of force in certain environments, they have brought upon many stakeholders certain challenges which need to be solved in order to permit the use of PMSCs. These companies can threaten transparency and oversight of governments, thus weakening demo-

cratic control. States lack an oversight system when contracting a PMSC engendering a lack of transparency in the state itself.

Yet, another aspect regarding the use of PMSC that was not yet been mentioned in this paper, but is worth discussion, are the ethics and morals surrounding this issue. The rise of PMSCs has created deep moral issues, especially when contrasted with the service of a military personnel. Providing security and defending their country has long been seen as one of the duties and rights of citizenship. Therefore, PMSCs are changing the way we think about war, and theories of the use of force should be revised to adapt and integrate the use of PMSCs, and how the concept of duty has changed through their use.



RECOMMENDATIONS

In respect to all scholars I have read in my research for this paper and my work with Finabel, I would like to express a few recommendations to the Member States of Finabel and the European Union in general:

1. *Calls* for increased transparency, improved contract terms, increased competition in the bidding process, and governmental oversight. This can only be achieved through the appropriate political will. The military also needs to lobby the government and push for these measures to be passed. Nations need to create a national legal text to regulate PMSCs and avoid the breach of international law and norms and human rights abuses.
2. *Urges* the European Union to create a national oversight mechanism in regard to the contracting of PMSCs. Also, European law theorists should create a specific section in corporate law regarding the status of PMSCs.
3. *Encourages* the International community to revise the texts related to PMSCs, such as the Montreux Document of the UN, to create a comprehensive approach of the use of PMSCs. NATO should also include the use of PMSCs as a hybrid capability in its Strategic Concept.
4. *Emphasises* the integration of PMSCs in security governance talks at the European Union. This will create an integrated approach and will help increase cooperation between the public and private sector. Moreover, national governments could deploy military diplomatic teams to certain PMSC headquarters to engage in negotiations and to explore contract bidding.
5. *Highlights* how for nations that refuse the use of PMSC, Pattison (2014) has found two solutions: conscription, which will not be accepted by the contemporary society everywhere, or the creation of an all-volunteer force (AVF) in order to have enough manpower. However, this situation is less likely to appear in Europe where citizens are not willing to engage in combat operations. The only example of an AVF in Europe is Estonia which has created a cyber AVF who work in their free time to help the state increase its cyber defence capabilities.
6. *Requests* the creation and monitoring of a public debate on the use of PMSCs. Citizens need to be made aware of the benefits of using PMSCs, but they also need to understand this phenomenon, in order to identify both the benefits and the dangers.

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Created in 1953, the Finabel committee is the oldest military organisation for cooperation between European Armies: it was conceived as a forum for reflections, exchange studies, and proposals on common interest topics for the future of its members. Finabel, the only organisation at this level, strives at:

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- Contributing to a common European understanding of land defence issues. Finabel focuses on doctrines, trainings, and the joint environment.

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In the current setting, Finabel allows its member states to form Expert Task Groups for situations that require short-term solutions. In addition, Finabel is also a think tank that elaborates on current events concerning the operations of the land forces and provides comments by creating "Food for Thought papers" to address the topics. Finabel studies and Food for Thoughts are recommendations freely applied by its member, whose aim is to facilitate interoperability and improve the daily tasks of preparation, training, exercises, and engagement.



Tel: +32 (0)2 441 79 38 – GSM: +32 (0)483 712 193
E-mail: info@finabel.org

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