



Institute for Domestic & International Affairs, Inc.

Disarmament and International Security Committee

Private Military Contractors: The Role of Human

RAMUNC



EST. 2025



Policy Dilemma

Mercenaries - private individuals who join conflicts for profit - have existed as long as wars have been fought and have had a place in nearly every army. The Battle of Hastings - which is considered to be one of the most important battles in English history - resulted in a Norman victory because of the help of French, Dutch, and Flemish mercenaries.¹ “Hessians” were German guns-for-hire who fought for the British and rebel Americans during the Revolutionary War. They were simultaneously seen as people hired to do the “dirty work” and noble warriors who joined the fight of their own volition despite only having an ideological connection.² This essentially sums up the attitude towards mercenaries throughout history, the latter perception of them explaining their continued use despite their ethically gray role. While mercenaries were yet to assemble into tangible bodies, they quickly established themselves as businesses. The issues raised by Machiavelli were observed all across Europe, English soldiers often expressed distaste for the mercenaries they served with not only because of their lack of allegiance to the flag, but also because of their apparent immorality.³ Due to their proven efficiency and ease of use, mercenaries continued to be used well into the 20th Century causing their position in the world to shift as they gained political power.

In the new world order in place after the end of American hegemony, several other actors were actively competing for powers including newly created corporations both military based and not. One of the most prevalent and topical examples of this is the creation of contractors who provide for war by supplying soldiers to governments and present strategic advice, along with logistical and intelligence services.⁴ Private Military Contractors (PMCs), which have effectively filled the role of traditional mercenaries, have experienced unprecedented growth since the end of the Cold War. However, this growth has resulted in neglect of human rights in the places they operate. Addressing this issue

has proven to be incredibly difficult, due to the nature of the contractors themselves as they are not international bodies and therefore have a different process of being punished which has proven to be incredibly ineffective.⁵

PMCs started to gain prevalence after the beginning of the Cold War in order to address the new gap in powers created by the United States and USSR moving away from their self-appointed stations. The world was now a mess of new nations that were fighting for power internally and externally, creating the perfect market to profit from war and more specifically, violence. One of the first PMCs was Watchguard International founded by Sir David Sterling in the United Kingdom in 1964. After failing to formalize a relationship with the UK, Sterling set out to the Middle East and Africa to sell strategic insight, security, and special training.⁶ Many other companies followed suit, creating a rich global market of PMCs by the time the Berlin Wall fell in 1989. However, the need for regulation was recognized well before this, leading to the United Nations creating a resolution in 1989 banning the use of mercenaries in conflict, but only 34 countries signed.⁷

By this time global circumstances had changed as well. Only two years after the fall of the Soviet Union, there was a mass exodus of military personnel from the previous Soviet Republics and a massive boost in conflict within a state - also known as intrastate conflict. Many new unemployed military personnel seeking employment were given the perfect opportunity to use their skill set, causing a massive boom in the use and number of PMCs.

This trend has carried into the modern day as intrastate and interstate conflict rages on and there have been several notable human rights violations. Perhaps the most famous example is the torture of prisoners in Abu Ghraib by Engility Corporation and CACI International.⁸ Incidents like this led to PMCs, diplomats, and state representatives creating The International Code of Conduct for Private Security Service Providers which established a series of guidelines for how PMCs should act. While being an important

step, all the legal roadblocks that prevent PMCs or their personnel from being criminally charged for unlawful killings, torture, arbitrary detention, and other crimes still exist.

While there has been a greater focus on regulation, there are still significant gaps in how human rights groups are able to prosecute PMCs that violate human rights. The largest issue is that because PMCs are corporate bodies meaning they cannot be tried in domestic or international criminal courts, they can only be sued for financial compensation for damages. It is notoriously hard to prosecute PMCs and their personnel in a court of law because of their unique role as a corporate actor, international criminal courts cannot prosecute them as they are not under the same legal burdens as state actors and domestic criminal courts cannot prosecute them as they are corporations. Assigning state responsibility is also challenging as it can only be done if there is an explicit link to the military of the state, which is a rarity. In this committee, we will attempt to patch the legal gaps that ensure that human rights violations by PMCs are punished through the proper legal avenues.

Chronology

1964: Creation of Watchguard International and Rush to Africa:

In 1964, David Sterling established Watchguard International in the United Kingdom, the very first private military corporation. After failing to formalize a relationship with the British government, Sterling turned his sights towards the newly decolonized Africa, beginning with Libya where Watchguard assisted in the overthrowing of King Idris in 1969.⁹ This was the beginning of a long-standing trend of PMCs supporting the overthrowing of several governments in Africa. WatchGuard and other PMCs spread into Angola, Democratic Republic of the Congo, and Sierra Leone.

Interventions in Africa, especially in Angola, made PMC activity more public than ever and the results of the conflict spoke volumes about their power. In Angola, the

Western-backed The Popular Movement for the Liberation of Angola (MPLA) saw aid from PMCs also paid for by Western benefactors which eventually saw their victory in the first stage of the conflict in 1991. While this example can simply speak to the effectiveness of PMCs it can also speak to their potential for political influence. PMCs in Angola were specifically sent to prevent the communist National Union for the Total Independence of Angola (UNITA) from taking power. This led to Western benefactors gaining even more influence in the area as PMCs became a vital part of the MPLA army, ensuring that Western goals were carried out through PMCs on an institutional level.¹⁰ Angola isn't the only example of this with similar events transpiring in the Congo, internal conflicts being interrupted by foreign-funded PMCs. This not only contributed to the underdevelopment of these nations but also allowed them to be subject to the will of larger nations.¹¹ An increasing number of developing nations plummeted into debt and political instability as their efforts to centralize force after political overturn centered around PMCs funded by foreign backers. As this trend continued throughout the 1960s-1980s developing nations, including nations outside of Africa, continued to experience conflict and regime changes fuelled by conflict carried out by PMCs, leading to their rapid growth.

1989-2003: End of the Cold War and International Convention Against the Recruitment, Use, Financing and Training of Mercenaries

As the Berlin Wall fell in 1989, the world became concerned with reforming the broken, pre-existing systems calling for scaling back of nuclear programs and expansion of social programs. Due to their meteoric rise during the Cold War, mercenaries and PMCs were at the forefront of reform efforts. Reforms were centered around the use of mercenaries rather than PMCs, as PMCs were only used in 15 conflicts since 1960, leading to the International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries being created in 1989 by the General Assembly.¹² This convention banned the use of mercenaries in armed conflict and defined what a mercenary

is under the law. The official definition is wide reaching, defining mercenaries as persons who are recruited in order to fight in an armed conflict without any allegiances to a party of the conflict and as any person who is paid to participate in an act of violence (extending to coups, war, or policing).¹³ However, this convention did not apply the same restrictions to corporations, which were considered loose groups of mercenaries rather than actual entities. The corporate status of PMCs gave way to their methods of operation today, as corporations are not held responsible under international law as they are not considered to have political interests, while states do.¹⁴ While making some very important strides, there were still massive holes in the law which gave rise to an issue that would shape how conflicts are carried out.

Mercenaries being illegal gave way to a brand-new issue, the strengthening and expansion of PMCs in the 1990s and early 2000s. With mercenaries having no legal standing, they found PMCs to employ them. Now nations couldn't contract individuals or small groups; they had to negotiate contracts with much larger entities for more services and for more money. Wealthy and powerful nations began to sign contracts with the much larger corporations that now existed to carry out foreign policy objectives as they had with mercenaries during the Cold War. The United States developed a relationship with a PMC formerly known as Blackwater, now Constellis, during the Gulf War in 1990. While their relationship wouldn't prove to be problematic in this conflict, the Iraq War - which took place from 2003 to 2011- would prove a far different story.¹⁵ Blackwater started their official relationship with the US in 1996 and have only gotten closer since they were one of the three contractors working with the government during the Iraq War.¹⁶ The United States ended up spending \$1 billion on military contractors providing training, technology, and personnel in this conflict alone. This started a trend in which wealthier nations would employ PMCs to achieve their external political objectives elsewhere as it became faster to use PMCs rather than military or legislative avenues.

2003-2007: Abu Ghiraib Torture and Abuse Scandal and Nissour Square Massacre

While PMCs seemed like a convenient and swift alternative to the military when conducting foreign policy, it came with several costs. Nations were pouring significant amounts of money into contracts making PMCs extremely wealthy and making the career extremely profitable. However, there were other human costs as well. Human rights violations follow PMC operations around the world with some of the most jarring violations that caused global outrage. The Abu Ghraib scandal exposed a torture chamber in an Iraqi prison where U.S. personnel would torture suspected aggressors. Most of the personnel were contractors from the PMC CACI International.¹⁷ There were 44 separate incidents of abuse, with CACI contractors being responsible for at least 16. While the U.S. soldiers involved all faced charges, the contractors faced no criminal prosecution.¹⁸ The lawsuits that followed charging the corporations were unsuccessful due to the oft-exploited legal loophole regarding PMCs. Since PMCs were not states they could not be tried in international criminal courts and since they were not individuals they could not be tried in domestic criminal court, essentially granting them impunity.

Three years later in 2007, the Nisour Square massacre at the hands of Blackwater contractors in Baghdad resulted in 14 deaths. The contractors responsible were charged in the United States and convicted of voluntary and attempted manslaughter and one count of first-degree murder.¹⁹ However, they were pardoned in 2017 by then President Trump demonstrating a pattern that is common among nations that use PMCs regularly. Human rights violation perpetrators are often charged in the country they were hired by, only to be pardoned later, guaranteeing that there are no consequences for their actions. This is often how nations deflect blame and retain the business of contractors.

2007-2013: Creation of the International Code of Conduct for Private Security Contractors and Changes in Political Power

Outrage stemming from leaked photos of the atrocities of Abu Ghraib and Nisour Square fueled an international call for reform in the PMC industry.²⁰ As they began to lose popularity in the eyes of the public, contractors wanted to create a system by which they could fulfill the call for regulation but prevent a third party from intervening. This led to the creation of the International Code of Conduct for Private Security Contractors (ICoCA) in 2013. Led by Swiss diplomats, the ICoCA provides certification for PMCs which meet their standard in internal organization, transparency, and human rights protections.²¹ While many PMCs did sign onto this agreement, many also did not, leading the agreement to have a very limited jurisdiction on where and how it could prevent future human rights abuses. However, this was an important step as it was the first time the need for a regulatory body was recognized.

It was also after the leak of many human rights violations that many people realized the true nature of the use of PMCs. The unique role they play enables them to avoid any responsibility to the people of whatever country they are operating for or in. This is not the case for an army as they are held responsible to the people of their nation to justify their existence. A PMC needs no such justification, they are not only free from responsibility to a voting base but are also open to independent leadership and greater autonomy.²² The period following the Iraq War saw PMCs using this to their advantage, carrying out missions of personal importance and demonstrating less allegiance to the parties that were paying them. This came with a slew of human rights violations like beatings in pineapple farms owned by multinational corporations in Kenya, in which workers were beaten for insubordination, not meeting quotas, and lateness.²³ PMCs were in much higher demand, not only from states but also corporations, like the aforementioned one, that want to prevent political change in regions that they produce in.

2013-2024: Growth of Wagner group and role of PMC's in Liberal World Order

One of the stand out figures in the field of PMCs is the Wagner Group which has essentially become an extension of the Russian military. Wagner was officially formed in Russia as an offshoot of another PMC, Executive Outcomes, and had its first operations in the 2014 proxy conflict in the Donbas region.²⁴ It also took an active part in the Chechnya conflict, Syrian conflict, and Russia-Ukraine war as a PMC despite it being common knowledge that they operated as the Russian military. This allowed Vladimir Putin to commit war crimes in Chechnya, Syria, and Ukraine without facing any legal charges.

The Wagner group only grew closer to the Russian government from 2014 to the present, especially through the Russia-Ukraine war which began in February of 2022. However, the interaction between the two parties have changed drastically. Wagner was headed by one of its two original founders, the Russian oligarch Yevgeny Prigozhin, who became infamous for killing his own personnel and disobeying direct orders from the Kremlin in previous conflicts.²⁵ Prigozhin rapidly gained popularity in 2022 and 2023, eventually leading him to attempt a coup on the Russian government in August of 2023. The coup was eventually stopped and Prigozhin was killed. An important change occurred after his death within Wagner itself. Putin forced each active member of Wagner to take an oath of allegiance to him, which made the company an extension of the president.²⁶

The fact that the Wagner group still exists as it does provide proof that there has been a clear shift in the role of PMCs in the world order today. Nations have used the legal privileges of PMCs corporate status in order to sidestep punishment that would ordinarily come with their actions.²⁷ The lack of legal infrastructure is the key point of concern in this issue, and it is highlighted through Wagner, and any other PMC, and their unpunished human rights violations.

Actors and Interests

Private Military Corporations (PMCs)

PMCs are widespread in the modern world, making them a common means by which states achieve political objectives abroad. They provide services for clients which can range from businesses to rebel political organizations to nations. Their current legal status as corporations allows them to function as multinational corporations, with the ability to compete in several markets at once and thus, maximize their profits. This is why most PMCs prefer to remain in the legal gray areas that corporations have on an international scale. Their place in the legal framework allows them to properly carry out the work they are paid to do as well as establish influence in order to drum up more business in the future. PMCs wish to conduct business the way they currently do, simply because regulation would lead to a decrease in profits and client base.²⁸

The wealth and growth of PMCs has led to a large industry being created on an international stage. The United States DoD spends \$295 billion on contract awards yearly with \$113 billion going towards unspecified services; the amount of money funneled into their services by governments can keep PMCs active with only one or two clients.²⁹ With nations willing to spend exorbitant amounts on their services, the demand for more PMCs only grows with the joint lack of regulation. Several contracting companies have PMC sister corporations, such as Northrop Grumman who own Vinnell Arabia, a PMC, to go along with the services they already provide in aeronautics and weapon part assembly.³⁰

PMCs are unique in geopolitics because of their lack of an official label and their constant global operations. The abstraction regarding PMCs role in the world speaks to their corporate status. While it does allow for greater profits, it offers the opportunity for PMCs to shirk responsibility for abuses as their services become the responsibility of the contractee who hired them. This guarantees that any fault would lie in the hands of the contractee or the individuals that carried out the abuses rather than the PMC as a body.³¹

The current legal framework allows for the prosecution of a state and an individual, but PMCs qualify as neither. They cannot be tried as organizations due to international courts only being able to prosecute states. However, individual contractors can be tried in these courts, but this process is often lengthy and inefficient. Charges levied against individuals are often covered up or pardoned by states as seen in the Nisour Square case where all officers were granted a pardon by President Donald Trump in 2017.³² PMCs look to retain all their abilities in operating while preventing the legal framework for prosecution from being developed. Due to outrage prompted by several publicized abuse of power scandals – like Abu Ghraib, Nisour Square, and several conflicts in Africa – many PMCs have adopted guidelines of the use of force, made specifically to prevent human rights abuses in the future, however the only reports that indicate effectiveness are self-reported by the PMC. While its effectiveness can be brought into question, the guidelines (which are specific to each PMC) are enforced within the organizations that have them. However, there is no existing third party that ensures that standards are being met.

Developing Nations

Developing nations are where Private Military Corporations tend to spend most of their time whether they are employed by corporations or nations due to their rich natural resources and conflict-ridden political state. Developing nations, especially those who experience internal conflict, tend to be frequent users of PMCs for not only warfare, but also to maintain an army after the fact. New nations look to consolidate power and protect their people by stomping out resistance, work which is often outsourced to PMCs. This leads to the militarization of humanitarian efforts after a conflict which can lead to prolonged and unnecessary violence.³³ The destabilization of the rule of law is often seen in these nations as contractors are given weak regulations when acting as the police force, leading to increased violence during times of peace.³⁴ Even during times of war PMCs have little to no regulation and are often funded by foreign backers leading to massive debt and little to no movement in a conflict.³⁵ Issues like these, which stem from the use of

PMCs, have proven deadly for governments in developing countries whether it be losing popularity, crumbling under debt, or losing autonomy due to foreign influence.

Wagner has proven itself to be a prominent actor in unstable governments facing crises. In nations such as Mali and Niger, Wagner has played a key role in the derailing of their governments leading to mass humanitarian crises as well as governmental crises due to a lack of centralized power.³⁶ Mali, sharing a close relation with the United States and France, has undergone years of war attempting to remove terrorist organizations from the region. In 2020, Wagner offered their resources in the region, establishing Wagner strongholds which were used for training and security. Wagner was so effective in the region due to the growing resentment of France, Mali's previous colonial overlords.³⁷ However, the growing reliance on Wagner led to the government losing their centralized power to the military who engaged in a successful coup, overthrowing the current government with suspected assistance from Wagner forces.³⁸ This led into another coup the following year with continued reports of Wagner involvement with the military. The role of Wagner in these countries is representative of what happens all over the world.

This has led to an ongoing discussion about the merits of PMC involvement in developing nations. Some argue that it is the easiest way to maintain power over a large amount of land after a change in regime while others argue that their involvement dooms a regime from its conception.³⁹ Oftentimes, most nations take it on a case-to-case basis. Developing nations tend to use PMCs in order to centralize power due to a weakened military and police force after a conflict. For example, the Niger junta, after the most recent 2023 coup d'état, publicly requested help from Wagner in centralizing power after threat of intervention by other West African forces. This fragile state of new governments is often taken advantage of because of the opportunity to generate influence for Wagner and ensure their services are continually required.

United States of America

The United States has one of the most involved relationships with PMCs into the

2020s, meaning that they are also closely tied to the issues that are associated with PMCs. The United States government has no official position on the use of and interacting with PMCs, but their actions have aligned with those who are resistant to reforms in the industry like the PMCs that work with them and their allies who use PMCs.⁴⁰ The government has lent its support to three already existing reforms. First, The International Code of Conduct for Private Security Service Providers (ICoC), a set list of rules, regulations, and definitions set and agreed upon by PMCs and few state actors made to prevent abuses by PMCs. The Department of Defense (DoD) also voiced support for extending the already existing United Nations Guidelines of Force to PMCs as well because there is no explicit indication that the guidelines apply to them. The most recent remedy proposed by the DoD is the Montreux Document, which is the agreement of states to view and interact with PMCs and other NGOs as if they were states. The DoD has provided vocal support for this in the international community, but there is yet to be a preliminary draft of the document.⁴¹

The United States, being one of the most frequent users of PMCs, has not expressed a strong desire for reform of any kind and has yet to create any set of guidelines outside of the DoD.⁴² The United States has maintained a close relationship with Blackwater, a PMC, and has used them in almost all conflicts since the Gulf War, most notably in Iraq and Afghanistan during the Iraq War and the War on Terror with their personnel reaching 160,000 from purely American employment.⁴³ The United States has continued to employ Blackwater in order to sustain its already existing projects and in order to carry out political objectives in other regions. PMCs serve as a means to an end allowing for the government to make important decisions while bypassing bureaucratic redundancies.⁴⁴

Blackwater, now Constellis, is one of the best-known PMCs mainly because of their business with the United States, and most notably their involvement in the Nisour Square Massacre. Both Blackwater and the DoD have shirked blame because of the legal

framework regarding PMCs, the United States was able to claim ignorance while the operatives that carried out the massacre were pardoned seven years into their thirty-year sentence. The United States has long aligned itself with human rights, however their frequent use of PMCs has led them to support mostly self-regulating reforms. The United States has not ratified or signed the agreement to ban mercenaries in armed conflict and withheld as a signatory on any UN resolution on the topic. However, there have been multiple grievances brought up with the Russian military group Wagner since its creation and in the ongoing Russia-Ukraine War. The United States government has expressed a strong distaste for Wagner, classifying it a Significant Transnational Crime Organization and considering it an extension of the Russian government rather than a PMC as the Russian government claims.⁴⁵ There have been sanctions placed on companies with ties to Wagner as well as on the Russian government for collaborating with them.⁴⁶

Regarding the overall position on PMCs, the United States sees several advantages from the use of PMCs and aims to continue using them, however, they have still advocated for reform in their use. PMCs have come to play a core part in the government when exercising foreign policy or engaging in military operations and the United States government has no intention of changing that.

Russia

Russia has a very unique relationship with the PMC Wagner, which is considered an extension of the Russian military by many despite repeated denial from the Kremlin. Wagner came to rise during the 2014 annexation of Crimea where they carried out assassinations and regular ground maneuvers and in their involvement in Russian intervention in Syria.⁴⁷ Since then they have been intertwined into every conflict that Russia has been involved in since, especially in the Chechnya conflict and the ongoing Russia-Ukraine War. Russia, especially President Vladimir Putin, has been vocal about the use of PMCs to establish influence abroad and has used PMCs to do so in recent years. However, the establishment of PMCs in Russia is illegal, meaning that Wagner does not

exist on paper.⁴⁸ This is essentially what enables Russia to operate as it does with Wagner, enacting Russia's foreign policy goals all across the world.

However, Wagner's relationship with Russia changed dramatically during the Russia-Ukraine war due to a mutiny organized by Yevgeny Prigozhin in August of 2023 in response to overextension of military personnel during the conflict. While there was still plausible deniability for Wagner and the Kremlin's relationship before, Putin has made it a point to fully integrate Wagner into the Russian armed forces in every way but on paper.⁴⁹

Putin forced all active Wagner operatives to take an oath of allegiance to the Russian government after stopping the mutiny. However, this brings into question their ability to operate in Africa and the Middle East as they had been. Wagner has continued their activities in Ukraine after a brief recess, as well as their operations in Africa.⁵⁰ The legality of Wagner's activities in both regions is incredibly gray as there is no current framework to classify Wagner as an organization or the nature of their activities.

The Russian government has maintained that security lies in the hands of the federal government which is how they justify the use of groups like Wagner in association with their military. While PMCs are currently illegal there is a strong push to make them officially legal domestically, especially after the de facto dissolution of Wagner forces. This is mainly due to the political advantages which they offer the Russian government in their current state which leaves them untraceable back to the Kremlin. This is also why Russia has not participated in any reform efforts for the use of mercenaries and PMCs globally. Their current goals are simply to maintain the status quo.

Possible Causes

Lack of International Accountability

When human rights violations are perpetrated, there are levels of responsibility for the parties involved in the operation. The individual contractor is held responsible first,

but, charging the individual can often be difficult due to the frequently uncertain combatant status of contractors. Contractors can be considered combatants if they are integrated to some extent into a state's armed forces, and thus subject to the normal process of charging those who violate human rights internationally through the International Criminal Court (ICC). Contractors can also be considered non-combatant belligerents, indicating that they are participating in the conflict without actively taking part in combat, which is often used to claim plausible ignorance or non-involvement in cases of human rights abuses.⁵¹ Contractors are often not held responsible in domestic courts as well due to state dependency on PMCs, as arresting contractors would drive away PMCs.⁵² Responsibility would extend to the PMC as well as the contractor, however, PMCs often circumnavigate this. PMCs carry a corporate status, indicating that they are a corporation on an international scale rather than an organization, leaving them with the legal responsibilities and privileges of a multinational corporation (MNC). As an MNC, PMCs are bound by the same laws protecting human rights during their regular practices, however they are not bound by human rights law used during conflict. Human rights law in this field varies wildly from a state-to-state basis as states have to sign onto a treaty in order to be bound by it; these treaties often grant exemptions in extreme situations that vary from state to state. When PMCs operate, they are bound by the laws of the state that employs them in warfare which often allows them to circumvent being charged for human rights violations either through exemptions in international law or through the domestic laws of the state.⁵³ States also avoid responsibility through this same avenue, pushing responsibility onto PMCs who then use the aforementioned method to shirk legal consequences.⁵⁴

This all stems from the lack of a tangible, legal framework to regulate the actions of the PMCs while recognizing their role in the international world order as organizations constructed to interact with militaries and engage in all aspects of combat. Attempts to achieve this have resulted in self-regulatory efforts such as the International Code of

Conduct for Private Security Contractors (ICoC) and the incomplete Montreux Document. Both efforts can be considered substantial and important, however they fail to address the complicated legal avenues required to try the parties involved in a human rights violation to the most basic level.⁵⁵

Use of PMCs as a Political Tool

PMCs have shifted from a tool used for risk management and fast acting security to a device by which nations can gain enormous political clout. A significant source of political leverage is generated from the cost of PMC operations. Contractors tend to be two to ten times more expensive than the average soldier, making their services extremely costly.⁵⁶ Despite the high cost, developing nations still frequently use PMCs, often on the dime of wealthier nations such as the United States and Russia.⁵⁷ This tends to leave them in debt creating a power structure in which the developing nation is subject to the will of the superpower until the debt is paid off.

PMCs have also become the most popular tool to achieve foreign policy objectives overseas in a quick and discreet way. More importantly, in the case of the Wagner group, they have also begun to act as vessels for nations to exact their influence in other countries. Russia has maintained a steady sphere of influence in sub-Saharan Africa due to Wagner's activities in the region. Wagner has supplied security and defense personnel, humanitarian aid, and other necessities in order to gain access to the natural resources of countries like the Central African Republic, Sudan, and Chad.⁵⁸ This has created a Russian sphere of influence which has only been solidified further in recent years.

Russia's ability to use Wagner as a political entity to create a sphere of influence has raised questions about the true reach of PMCs in how they interact with actors. As proven by Wagner, PMCs can act as an extension of a state overseas expanding their role in the global paradigm. They can influence political outcomes which should be recognized and responded to on a large, international scale.

Growth of Market for PMCs

PMCs are used frequently and widely because they allow for fast action in matters of national interests overseas. They also avoid the sluggishness of downsizing and specializing required for smaller military operations as contractors are already well trained and in smaller groups.⁵⁹ The expansion of the market can be largely credited to the Iraq and Afghanistan War. After refusing to spend excess funds on already prolonged wars, the United States, the United Kingdom, and other allies slowly began to replace their military personnel with contractors. In 2011 alone, 120 new PMCs were formed to meet the new demand.⁶⁰ Developing nations also see significant upside from using PMCs in the short term. When consolidating power in a state, having an organized force ready for immediate deploying is extremely attractive to developing states. The growth of the market has led to the exacerbation of the issues already associated with PMCs.

Comparison of Causes

Defending human rights requires a framework by which to try and jail those who have been accused of violating human rights. The current framework laid out for PMCs is inadequate as they fail to isolate PMCs into combatant and non-combatant groups, allow for political ends to be carried out by contractor forces in places beyond a nation's jurisdiction, fail to provide an avenue for PMCs themselves to be tried in court, fail to hold states accountable for human rights abuses, and continues to feed into ongoing conflicts. The pushes for reform in creating a set of legal definitions and regulations with a third party have been the most organized and informed efforts as it can address all of the issues mentioned.

However, the private military industry is too profitable to allow a reform as wide and sweeping as a legal framework to take place. The actors which make change capable use PMCs the most, such as the United States, Russia, United Kingdom and much of the developing world. These states depend on PMCs to carry out a key part of their military

operations either overseas or domestically, making reform an unwelcome option. PMCs also take part in defending political strongholds overseas, which is why the United States used them so frequently in the War on Terror and the Iraq War and why Russia uses Wagner to establish spheres of influence. These holdings are too valuable for many nations which is why efforts for reform are typically slow. The issue calls for the effect of sweeping reform in small, digestible segments that can be presented to and accepted by a body of both PMCs and state actors.

Projections and Implications

If left unimpeded, human rights violations carried out by PMCs will continue to go unpunished as they currently do. Many contractors have continued to work mainly with multinational corporations to protect their valuable holdings overseas. The Democratic Republic of Congo is known for its natural resources and the presence of multinational corporations mining operations. PMCs are often used, illegally according to international law, to ensure that workers are productive and that nothing is stolen from mines.⁶¹ Often placed in areas under the guise of safety, corporations take advantage of the legal ambiguity that contractors have to have stringent restrictions placed on workers with little to no consequences.

The continued lack of regulation of PMCs will also see their continued presence in intrastate conflict. As seen through PMC intervention in Angola, PMCs tend to elongate and exacerbate conflicts as they typically represent the interest of a third party to some extent.⁶² The use of PMCs on one side begs the involvement of PMCs by the opponent as well, elongating the conflict due to both sides receiving the specialized help they would not receive otherwise. Developing nations often have a difficult time centralizing power, and when conflict breaks out this task becomes even more difficult which drives many to hire PMC assistance. However, PMCs providing training and personnel tend to disregard their employers at a higher rate during times of conflict leading to institutional difficulties

that could prove fatal for a regime during a time of conflict within the state.⁶³ Wagner also serves as a looming threat pertaining to this issue. Wagner contractors have recently been forced to declare allegiance to Putin and his regime. Wagner could be considered an extension of the Kremlin, but it could also still be considered a private corporation since it technically is not an entity in Russia. The uncertainty on their title speaks to the immunity they've been allowed to work with. Russia has continued to shirk state responsibilities for atrocities committed in the Chechen conflict and Crimean War by placing the blame on Wagner who cannot be charged due to the previously mentioned legal roadblocks, which is a common trend observed among PMC-using states.

Committee Jurisdiction

The Disarmament and International Security Committee (DISEC) is responsible for addressing any prominent threats to international security which may disrupt the current order. This committee creates draft resolutions through the cooperation of all of the United Nations member states thereby fostering deeper diplomatic connections and transparency relating to international armament.⁶⁴ There are two groups that DISEC works in close contact with, the United Nations Disarmament Committee (UNDC) and the Conference on Disarmament. The UNDC ensures safe disarmament after a conflict, this extends to the removal of arms (ranging from nuclear weapons to weapon components), safe reintegration of combatants, and transparency in transporting arms. This committee is also meant to ensure the continuation of any past draft resolutions by releasing yearly reports about whether standards were met.⁶⁵ The Conference on Disarmament is targeted at the disarmament of mainly nuclear warheads, along with the prevention of an arms race in outer space.⁶⁶ DISEC is entitled to funding through the Conference on Disarmament as that is where the actions of the committee are carried out. The committee has access to the United Nations Trust Facility Supporting Cooperation on Arms Reduction, UNSCAR is given to short-term operations with limited budget and immediate impact and Saving

Lives Entity (SALIENT) which is meant for longer-term operations.⁶⁷

Only one significant draft resolution was created with the help of DISEC in restricting the abilities of private military contractors, the International Convention Against the Use or Recruitment of Mercenaries.⁶⁸ However, only 35 countries have ratified the resolution created as a result of the convention. Several unfinished draft resolutions have also been floated, mainly by smaller groups, with the largest effort from within the UN coming from the Working Group who have supported an international legally binding

Conclusion

The legacy and impact of private military contractors extends from ancient times and into the modern day, which speaks to their current role in the world order. Military contractors have been significant in almost every key conflict in modern history. The United States used Hessian mercenaries in their war against the British, they were used to a smaller degree in the two World Wars, and the Allied powers used contractors to fight proxy wars during the Cold War. The call for regulation after the Cold War was considered long overdue as people had begun to challenge the abilities that PMCs had leading up to that point.

Interventions in Africa, especially in Angola, speak to PMCs potential for political influence. PMCs in Angola were specifically sent to prevent the communist National Union for the Total Independence of Angola (UNITA) from taking power. This was one of the first instances of a PMC being used by a state in order to achieve a foreign policy objective while bypassing the regular bureaucracy required to do so. This led to the first reforms being created, however, they failed to address the ability of mercenaries to form groups under which to operate which would lead to the boom in the PMC industry. This became a much larger trend in the 21st Century, especially in the Iraq War and the War on Terror. It was also during this time that some of the largest human rights

violations perpetrated by PMCs were revealed to the public. In Abu Ghraib, a military prison in Iraq, contractors oversaw the abuse and torture of hundreds of Iraqi prisoners. Pictures released to the public caused mass outrage which was only exacerbated by the Nisour Square massacre 3 years later. Many of the contractors involved faced no punishment, those charged were often pardoned or given lighter charges. This revealed a clear gap in the legal responsibility of PMC contractors as compared to regular combatants.

PMCs are often not held accountable for human rights abuses due to the lack of an international, legally binding framework. On an individual level, contractors are not considered combatants in many regions where they operate as such so their actions as non combatants cannot be tried in an international court. While they can be tried in domestic courts, many nations do not have the same framework regarding human rights abuses as the ICC or any other international court leading to some crimes not even being charged. On an organizational level PMCs are a corporation which means that they cannot be tried by international courts as they are neither an individual nor a state. Ongoing efforts for reform, which include the International Code of Conduct for Private Security Contractors (ICoC) and the Incomplete Montreux document, have failed to create an effective framework as many of the same issues persist today, as exemplified by Wagner. The growth of Wagner and its new integration into the Russian military raises questions about what even qualifies as a PMC and the ability of a state to create an entity that is more resistant to human rights law than itself. PMCs and their industry have only continued to grow, only strengthening the need for an effective and binding way to hold them accountable for human rights abuses and political destabilization.

Discussion Questions

- It is often said that “international law is based on the concept of the state”⁷, how can we change international law so that it can be used to regulate ALL actors?
- How can we ensure that states do not try to cover-up or provide immunity to PMCs human rights violations?
- Is it possible to incentivize states to avoid using PMCs?
- Can anything be done internally to reduce the frequency of human rights violations by PMCs?
- PMCs have been receptive to self-regulation; how can we allow PMCs to regulate themselves while also ensuring transparency in reporting misconduct?
- Where does the United Nations Mercenary Convention fall short in its definition of PMCs, mercenaries, and Security Services?

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