

Forum: General Assembly (GA)
Question of: Addressing the Role of Private Military Companies in the Maintenance of Global Security
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Introduction

Although mercenaries have existed for millennia, the organized private military company in its modern form arose near the end of the Cold War in the 1990s. Spurred on by various factors formed from the dissolution of the Soviet Union, private military companies have become a key asset in military operations around the world for a myriad of different countries and non-state actors. However, despite their increased presence in military doctrine, such entities face scant regulation, with the few laws made specifically to address private military companies being rarely enforced.

Concerning the sudden prominence of private military companies, the phenomenon can be attributed to three circumstances that arose from the post-Cold War era. Most notably, the end of the Soviet Union meant the lack of an on-par threat against the United States and its allies, subsequently leading to the general downsizing of professional armies as organizational structures and priorities were reshuffled to more accurately reflect the security situation.¹

This also meant that there was a sudden rise in former military personnel alongside discarded military equipment onto the global market, which coincided with increased conflict in the developing world that created a demand for private military companies and their services. Due to renewed political, ethnic, and religious conflicts caused by the increased instability governments faced from a sudden lack of either American or Soviet support, private military companies were able to find a niche as a seemingly cheaper and readily available alternative to professional militaries through employing large numbers of former soldiers and purchasing large quantities of military hardware at cheap prices.²

Thirdly, the trend toward the privatization of industries alongside the overall development of technology also affected the military doctrine of many countries in the west such as the U.S. and the UK, where the majority of private military companies are located. As the nature of warfare progressed to

¹ David H. McCormick, *The Downsized Warrior: America's Army in Transition* (New York: NYU Press, 1998).

² Wojciech Palka, "The Awakening of Private Military Companies," Warsaw Institute, August 8, 2020, <https://warsawinstitute.org/awakening-private-military-companies/>.

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include greater amounts of technology, the militaries of developed countries started to increasingly use products from the commercial sector in areas such as satellite technology, among other fields.³ In the case of the U.S. and, to a lesser extent, other countries, the broader idea of outsourcing previously-government functions to the private sector also took hold in the military, alongside other fields such as education, prisons, and policy.⁴ In essence, the line between military and civilian sectors in society became less apparent as rapidly advancing technology had equal viability in both fields, leading policymakers to then incorporate private businesses into the military as they were already doing in other, more civilian systems.

This integration of private military companies into the global defense industry hasn't been without its downsides. Namely, private military companies, at their core, operate for the sole purpose of profit, with defense operations through contracts with countries and/or non-state actors only serving as the means to said goal. This has mainly come in the form of financial abuses, such as the UK-based company, Ultra, allegedly engaging in fraud when handling business in military electronics with the Algerian government as of 2018 alongside simultaneous investigations into Rolls-Royce and BAE Systems by the Serious Fraud Office in the UK.⁵ Indicative of a more significant trend of financially-oriented illicit actions, companies in the past have also pulled similar schemes in active combat areas, such as Halliburton, the private military company formerly in charge of American logistics in Iraq, secretly fabricating non-existent services on their contracts to collect more money from the U.S. government.⁶

This profit-oriented philosophy has also meant a paradoxical dynamic between the companies and militaries which places either private military personnel—typically called “contractors”—or professional government soldiers at risk. On the one hand, private military contractors are employed to reduce the burden on a professional military, especially regarding high-risk tasks such as operations in areas with frontline combat.⁷ On the other hand, though, as private military companies aren't mandated to fulfill certain responsibilities, they also have the freedom to choose their contracts and even withdraw from them, placing a greater need for government soldiers to fill in the sudden gap, impeding military functions. Paradoxically, this is especially true in times of increased violence, with contractors from

³ J.R. Wilson, “How Military Harvests Technology from Commercial Industry,” *Military & Military Electronics*, October 2, 2016, <https://www.militaryaerospace.com/communications/article/16709009/how-military-harvests-technology-from-commercial-industry>.

⁴ Peter W. Singer, “Outsourcing War,” *Brookings*, March 1, 2005, <https://www.brookings.edu/articles/outsourcing-war/>.

⁵ “Ultra Electronics under SFO Investigation over Suspected Corruption in Algeria,” *Reuters*, April 19, 2018, <https://www.reuters.com/article/uk-ultra-electronic-fraud-idUKKBN1HQ0O6>.

⁶ Stephanie Kirchgaessner, “Halliburton Arm Accused of ‘Abuse’ in Iraq,” *Financial Times*, October 28, 2006, <https://www.ft.com/content/dab658d0-65e4-11db-a4fc-0000779e2340>.

⁷ “Private Military Companies,” *Geneva Centre for the Democratic Control of Armed Forces*, April 2006, https://www.files.ethz.ch/isn/17438/background_09_private-military-companies.pdf.

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companies like Kellogg, Brown and Root (KBR) refusing to operate convoys after an ambush in April 2004 until improvements to security were made by the U.S. government. This was accompanied by a broader abandonment of defense contracts with the U.S. government, leaving soldiers with inadequate supplies in certain areas of the country.⁸

This absence of rules around the conduct of private military companies additionally applies to their contractors. Essentially, as private military contractors aren't classified as either soldiers or civilians by either International Humanitarian Law or the Geneva Convention, much of their treatment as both a combatant and a prisoner of war is largely left to the interpretation and legislation of their employers and their captors.⁹ For this reason, contractors captured by groups from the Revolutionary Armed Forces of Colombia during active combat to 1995 Saddam-era Iraq from an accidental entrance into Iraqi borders are more prone to long prison sentences and general mistreatment.¹⁰ Although private military contractors are more flexible in their deployments compared to their government counterparts due to them being outside of a government's defense framework and rules, this comes at the expense of not being protected under said frameworks themselves.

Conversely, while private military contractors can experience such maltreatment, the lack of established laws around their conduct also means that they face scant liability. Most infamously, U.S. Army investigations into the 2004 Abu Ghraib prison scandal, centered around the abuse and torture of prisoners at the complex, found that around 16 of the 44 incidents of abuse involved private contractors across at least six employees. Yet, although several soldiers of the U.S. military were prosecuted, no private military contractor was charged with any crime, with the investigation itself having been given specific directions to not directly investigate the conduct of contractors.¹¹ In either sense, whether in a position of captivity or enforcement, private military companies are subject to little to no accountability nor protections, with these shortcomings ultimately having to be compensated by either the well-being of the contractors themselves or their employer, especially when regarded through a profit-oriented mindset.

Although there has been a lack of comprehensive action to truly address the matter of private military companies, international agreements have attempted to address the operations of contractors. In

⁸ T. Christian Miller, "Halliburton Suspends Some Iraq Supply Convoys," Los Angeles Times, April 13, 2004, <https://www.latimes.com/archives/la-xpm-2004-apr-13-fg-kbr13-story.html>.

⁹ "Rule 108. Mercenaries," IHL Database, International Committee of the Red Cross, accessed July 2, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule108.

¹⁰ David Isenberg, "Are PMCs POWs?" Cato Institute, August 1, 2008, <https://www.cato.org/publications/commentary/are-pmcs-pows>.

¹¹ Peter W. Singer, "The Contract the Military Needs to Break," Brookings, September 12, 2004, <https://www.brookings.edu/opinions/the-contract-the-military-needs-to-break/>.

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the case of the United Nations, the 2001 Mercenary Convention prohibited the recruitment, use, financing, and training of mercenaries—which, in this case, refers to anyone militarily involved in conflicts for private gain. However, while signed by 46 Member States, none of the Permanent 5 has neither signed nor ratified the resolution.¹² Instead, major powers such as the U.S. and the People’s Republic of China are signatories of the Montreux Document, which is an international agreement outlining proper state practices for the use of private military contractors. Regardless, though, the agreement is ultimately non-binding and doesn’t serve as a legal code for countries to adhere to.¹³ As one can recognize from these two instances, there has been little effort by the international community to address such an encompassing issue of global defense, with the few actions which have been done not giving enough of an established and enforceable framework to hold states and non-state actors accountable.

This, in turn, has had severe effects on global security and general global well-being. The vague legal system surrounding the existence of the private military sector has been to society’s detriment, whether in the form of white-collar crimes, sudden burdens on governments, the neglect of captured private military contractors, or the overlooking of abuse. Aforementioned instances of such conduct aside, addressing private military companies is of particular importance in the globalized modern era. For example, despite their signing of the provisions outlined in the Mercenary Convention, countries such as Equatorial Guinea have still nevertheless faced attacks by rebel factions employing private military contractors from the Central African Republic¹⁴ to the UK¹⁵. Meanwhile, signatories such as Saudi Arabia have broken the Mercenary Convention by employing contractors from Colombia against Houthi rebels in Yemen.¹⁶ Going beyond signatories of either the Mercenary Convention or the Montreux Convention, Russia’s decision to deploy Wagner Group—a Russian private military company known for their extensive involvement in Russian military operations—in their invasion of Ukraine has already led to

¹² Chapter XVIII Penal Matters, No. 37789, 44th Sess. (1989), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-6&chapter=18&clang=_en.

¹³ “The Montreux Document,” Federal Department of Foreign Affairs, May 9, 2022, <https://www.eda.admin.ch/eda/en/fdfa/foreign-policy/international-law/international-humanitarian-law/private-military-security-companies/montreux-document.html>.

¹⁴ “Equatorial Guinea ‘Stops Coup Attempt by Mercenaries,’” BBC, January 3, 2018, <https://www.bbc.com/news/world-africa-42557638>.

¹⁵ Daniel Boffey, “Margaret Thatcher ‘Gave Her Approval’ to Her Son Mark’s Failed Coup Attempt in Equatorial Guinea,” The Guardian, April 14, 2013, <https://www.theguardian.com/politics/2013/apr/14/thatcher-knew-of-equatorial-guinea-coup-attempt>.

¹⁶ Rori Donaghy, “Hundreds of Colombian Mercenaries to Fight for Saudi-Led Coalition in Yemen,” Middle East Eye, November 2, 2015, <https://www.middleeasteye.net/fr/news/hundreds-columbian-mercenaries-fight-saudi-led-coalition-yemen-964433925>.

allegations of war crimes in the region,¹⁷ adding to the various other allegations against them from their previous and current involvement in conflicts in Syria¹⁸ and North Africa¹⁹.

From this, one can see that even with unilateral action by governments or partial consensus between nations, such measures fail to properly resolve the issue of an unregulated market of private militaries. Indeed, although such may not arise within the immediate term, drafting a comprehensive resolution that can be agreed upon by all Member States is of extreme importance to truly foster any possibility of controlling the role of private military companies in the global defense industry.

Definition of Key Terms

Private Military Companies

Private military companies are corporations whose services center around military-related duties from training missions, combat operations, and general protection, among other functions.²⁰ Although made distinct in international discourse from private security companies, due to the highly overlapping nature of both,²¹ especially within an international context, private military companies will ultimately encompass any corporation offering military or security services for this agenda.

Private Security Companies

As mentioned previously, private security companies refer to any company that provides security to its clients. In the more domestic sense in developed countries such as the U.S., this usually entails exclusive bodyguard and property protection duties.²² However, in more unstable areas and on a more international scale, this function is often fulfilled by contractors who also hold combat roles and other functions relating to military operations. This blurs the lines between a private military and a private security company with their functions falling more into the former, hence the grouping of the terms when addressing this agenda issue.

¹⁷ Eleanor Beardsley, "An Ex-Member of One of the World's Most Dangerous Mercenary Groups Has Gone Public," NPR, June 6, 2022, <https://www.npr.org/2022/06/06/1102603897/wagner-group-mercenary-russia-ukraine-war>.

¹⁸ Zdravko Ljubas, "Paramilitary Group Wagner Sued in Russia for War Crimes in Syria," Organized Crime and Corruption Reporting Project, March 16, 2021, <https://www.occrp.org/en/daily/14063-paramilitary-group-wagner-sued-in-russia-for-war-crimes-in-syria>.

¹⁹ "Russian Mercenaries Behind Central African Republic Atrocities - HRW," BBC, May 3, 2022, <https://www.bbc.com/news/world-africa-61311272>.

²⁰ Duncan Bell, "Private Military Company," Encyclopædia Britannica, November 2, 2016, <https://www.britannica.com/topic/private-military-firm>.

²¹ "Private Military and Security Companies (PMSCs)," International Committee of the Red Cross, accessed July 2, 2022, <https://casebook.icrc.org/glossary/private-military-and-security-companies-pmscs>.

²² "Private Security Company," Law Insider, accessed July 2, 2022, <https://www.lawinsider.com/dictionary/private-security-company>.

Private Military Contractors

Among other labels, those who are employed by private military companies are defined as private military contractors. While typically taking up combat roles, this term applies to any soldier who is working under a private company.²³ This term is of particular importance as this agenda desires to directly address contractors and the companies who employ them, with effects on the general mercenary profession coming as a more indirect, but still desirable, result.

Mercenary

While interchangeable with the term “private military contractors” in certain contexts, mercenaries include anyone entering a conflict for financial gain.²⁴ This means that the term applies to those who aren’t working under an organized entity and are instead offering their services on an independent basis. It should be noted that the more general issue of mercenaries is what the 2001 Mercenary Convention tried to resolve, with private companies only applying due to them falling under the broad definition.

Combatant

While typically used to describe anyone involved in a conflict, in the legal sense (and the one relevant to this agenda issue), combatants are those who can rightly participate in international hostilities under international law. These people include those of the armed forces as well as volunteer and militia corps, among others. Combatants are entitled to the protections outlined in Geneva Convention III to prisoners of war when captured if they follow certain guidelines, the most notable one being to distinguish themselves from the civilian populace.²⁵ While seemingly all-encompassing, these guidelines have largely been regarded by international governments to exclude private military companies and their contractors as they argue private soldiers do not fall under the definitions outlined in international law.⁹ This means that to ensure the humane treatment of contractors in cases where they’re captured, a consensus on their treatment must be reached and upheld by the international community.

Civilians

²³ Alican Tekingunduz, “Are Private Military Contractors Any Different from Mercenaries?” TRT World, October 16, 2018, <https://www.trtworld.com/americas/are-private-military-contractors-any-different-from-mercenaries-20680#:~:text=Are%20PMCs%20and%20mercenaries%20different,these%20people%20in%20an%20organisation.>

²⁴ “Mercenary,” Cambridge Dictionary, accessed July 2, 2022, [https://dictionary.cambridge.org/dictionary/english/mercenary.](https://dictionary.cambridge.org/dictionary/english/mercenary)

²⁵ “Combatants,” International Committee of the Red Cross, accessed July 2, 2022, [https://casebook.icrc.org/glossary/combatants.](https://casebook.icrc.org/glossary/combatants)

Civilians, as defined by International Humanitarian Law, are those who aren't part of the armed forces. An exception to this status, though, arises when civilians spontaneously arm themselves against invading soldiers before they join the armed forces. In this case, they are subject to the treatment and standards of a combatant (as outlined above).²⁶ This definition, when accompanied by the definition of a combatant, is what arises the lack of international consensus around the status of private military contractors. In essence, contractors aren't regarded as part of the armed forces of a country nor a professional military entity but are simultaneously not seen as civilians due to their heavily military-related functions.

Prisoners of War (POWs)

Prisoners of war (POWs) are defined in the Geneva Convention as any member of a group's armed forces or militia, as well as those who are associates of the armed forces such as war correspondents. Additional requirements to qualify as a POW also define the necessary military structure to be labeled as an armed force, such as openly carrying arms and an established command structure. If such measures are or aren't met, they are to be treated as a combatant or a civilian respectively, with each obligating the capturing party to humanely treat the person in question.²⁷ As international law explicitly defines the treatment of these two designations, any reforms made to ameliorate the treatment of private contractors must either find a method to group them into one of the groups or carve out their unique system of treatment entirely to ensure humane conditions.

International Humanitarian Law (IHL)

Largely maintained by the International Committee of the Red Cross (ICRC), International Humanitarian Law (IHL) refers to a variety of treaties, agreements, and principles which dictates activities surrounding armed conflict and occupation. In this sense, IHL serves as the foundation for international courts to rule on issues such as war crimes and WMDs. One should note in this process, though, that IHL doesn't solely include the Geneva Convention, but also other documents such as the 1972 Biological Weapons Convention and the 1997 Ottawa Convention on Anti-Personnel Mines, among

²⁶ "Rule 5. Definition of Civilians," IHL Database, International Committee of the Red Cross, accessed July 2, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule5.

²⁷ "Geneva Convention Relative to the Treatment of Prisoners of War," United Nations Office of the High Commissioner for Human Rights, August 12, 1949, <https://www.ohchr.org/en/instruments-mechanisms/instruments/geneva-convention-relative-treatment-prisoners-war#:~:text=A.,2>.

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others.²⁸ This fundamental nature means that any measures to address the issue of private military companies must also fall in line with IHL, or attempt to reform IHL itself.

Timeline of Key Events

August 12, 1949 - Adoption of the Revised Geneva Convention III

While initially adopted in 1929, the Geneva Conventions of 1949 significantly revised the original Geneva Convention. Among the four conventions ultimately ratified, Geneva Conventions I and II were centered around the treatment of the wounded and sick on land and sea respectively, and was similar to their previous 1929 version. Geneva Convention III, though, was extensively rewritten to better ensure the treatment of prisoners of war.²⁹ This helped establish the foundations for IHL and has largely dictated the legal disputes concerning the ethical usage and treatment of private militaries by countries.

March 23, 1991 - January 18, 2002 - Sierra Leonean Civil War

In the wake of increased civil conflict in Liberia, the neighboring nation of Sierra Leone also experienced civil war when a coup was orchestrated against the then-president Joseph Momoh. In this conflict, while there was eventual UN intervention, private military companies, despite dubious morals and profit-oriented goals, played a significant role in supporting local Sierra Leonean stabilization efforts alongside UN and later UK military operations that ultimately concluded the conflict.³⁰ Although internationally minor, the conflict highlighted the potential benefits private military contractors can have in resolving conflicts through their flexible deployment, a wide range of experience, and general skill.

October 20, 2001 - United Nations Mercenary Convention Enters into Effect

Officially called the *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*, the UN Mercenary Convention attempts to prohibit the involvement or support of private military entities as a whole. Initially ratified in 1989, the agreement outlines the definition of a mercenary, alongside a general framework for signatories to follow to report any violations of the code to the UN as well as how to resolve the presence of mercenaries within their borders.³¹ While monumental in

²⁸ “What is International Humanitarian Law?” International Committee of the Red Cross, July 2004, https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf.

²⁹ “Convention (III) Relative to the Treatment of Prisoners of War. Geneva, 12 August 1949,” International Committee of the Red Cross, August 12, 1949, <https://ihl-databases.icrc.org/ihl/full/GCIII-commentary>.

³⁰ Adil Bradlow, *Sierra Leone: Soldiers of Fortune*, ABC, September 5, 2000, Documentary, 33:00, <https://www.journeyman.tv/film/836>.

³¹ “International Convention Against the Recruitment, Use, Financing and Training of Mercenaries,” United Nations Office of the High Commissioner for Human Rights, December 4, 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-against-recruitment-use-financing-and>.

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being the first major UN resolution to tackle the issue of private militaries, it has had little effect, with many of its signatories either becoming victims of or employing private military contractors.

March 20, 2003 - December 15, 2011 - Iraq War

Arising from claims of Saddam Hussein's regime hiding weapons of mass destruction in Iraq, the initial invasion and protracted Iraqi conflict highlighted the prominent extent to which private military companies have embedded themselves in conflicts. In the case of the U.S. alone, over 100,000 private contractors were employed by the American military during the conflict to minimize perceived losses to the American populace as well as for more cost-effective means of combat. However, while the latter was successful, contractors were found to be as costly as professional soldiers alongside an increased degree of conduct that obstructed operations on top of scandals involving abuse and fraud such as in Abu Ghraib and financial scams.³² The Iraq War and the abundant employment of contractors in the American military act as an example of the downsides one can face from the deregulated nature of the market.

March 7, 2004 - Wonga Coup Attempt

Led by ex-Special Air Service soldier Simon Mann, a coup attempt to overthrow Teodoro Obiang backed by British investors with a force composed entirely of mercenaries was foiled when they were captured in Zimbabwe. Mainly orchestrated in an attempt to better access the oil deposits of the country for the UK, the mercenaries were later convicted and imprisoned for their involvement in an illegal coup.¹⁵ Although not successfully carried out, the event demonstrates the increased danger certain countries in the developing world face in the wake of private militaries, which could easily carry out operations for the interests of more developed nations in both a more effective and discreet way than their professional military counterparts.

November 27, 2004 - Blackwater 61 Crash

Piloted by Captain Noel English in Afghanistan, all three military passengers and three flight crew on board the CASA 212 plane died after crashing into the mountains of central Afghanistan. With clear weather and a lack of combat in the area, the plane's crash was attributed to the lack of oversight over the actions of the plane on top of a lack of proper training for the plane's pilots.³³ This event then brought into question the other potential harm in an unregulated private military market: a lack of standards. As private

³² Michael Boyle, "How the US Public Was Defrauded by the Hidden Costs of the Iraq War," Global Policy Forum, The Guardian, March 11, 2013, <https://archive.globalpolicy.org/pmscs/52336-how-the-us-public-was-defrauded-by-the-hidden-costs-of-the-iraq-war.html%3Fitemid=id.html#50154>.

³³ "Pilot Said 'This Is Fun' before Fatal Blackwater Crash," CNN, October 3, 2007, <http://edition.cnn.com/2007/POLITICS/10/02/blackwater.afghan.crash/index.html>.

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military companies largely aren't subject to government regulation, this also brings the possibility of inexperienced contractors taking up roles beyond their capabilities.

May 27, 2006 - Release of Private Contractors in the Democratic Republic of the Congo

Initially there for security operations to support the presidential candidate Dr. Oscar Kashala under the instructions of American billionaire Frank Amodeo, 32 contractors were imprisoned by political rival General Jean-Pierre Bemba under the charge of them orchestrating a coup. Believed widely to be a move to assert political dominance in the upcoming presidential election, the contractors experienced regular abuse and torture. The POWs would've also been subsequently executed after their prolonged imprisonment if not for the unorthodox threats delivered by Amodeo himself to General Bemba.³⁴ While not the most renowned case of POWs, the case does highlight the lack of security contractors face when becoming POWs, namely that government entities aren't either inclined to negotiate on their behalf or treat them as well as compared to professional soldiers.

September 17, 2008 - Adoption of the Montreux Document

Outlining recommendations for states to follow for the ideal utilization of private military companies, the Montreux Document was initially adopted by 17 countries including the PRC, France, the UK, and the U.S. at Montreux, Switzerland. Specifically, the agreement outlines vetting processes for potential private military employees and legal proceedings for any transgressions by private actors. While significant in the sense of having the signatories of major powers and the countries where most private military contractors are located, the non-binding nature of the agreement³⁵ has meant that the outlines only serve as a framework for countries to voluntarily follow. In addition, other major nations such as Russia and India have yet to sign. Nonetheless, the content itself is worthwhile to be applied to resolutions for the broader international community as a whole.

September 30, 2015 - Ongoing - Russian Intervention in Syria

While Russia did deploy their professional military in Syria after a plea by their government, they also employed contractors under the private military company known as Wagner Group. After being brought to the region, Wagner Group soldiers garnered an infamous reputation, with several allegations of war crimes brought against them by Syrian civilians. However, due to vetoes by Russia and China, the International Criminal Court has yet to hear such cases. The invasion also marked a greater usage of

³⁴ Matthew B. Cox, *It's Insanity: The Bizarre Story of a Bipolar Megalomaniac's Insane Plan for Total World Domination* (self-pub., 2020).

³⁵ "Historical Timeline," Montreux Document Forum, accessed July 2, 2022, <https://www.montreuxdocument.org/about/history.html>.

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Wagner Group soldiers by Russia to help certain factions in Libya and Sudan, among other African regions, with greater amounts of war crime allegations and general misconduct arising from their involvement.¹⁸ Although grim, Wagner Group's actions are indicative of the more malicious aspects private military contractors can have in certain regions compared to the more obstructive and financial nature of those used by the American military in Iraq.

June 10, 2022 - Conviction of Ukrainian Foreign Legion Soldiers by the Donetsk People's Republic

Declaring Britons Aiden Aslin and Shaun Pinner alongside Moroccan Brahim Saadoun guilty of mercenary activities, the self-proclaimed Donetsk People's Republic sentenced the three to death for their involvement in fighting for Ukraine as part of the country's foreign legion.³⁶ While a part of the Ukrainian armed forces, the Russian proxy state ultimately declared them mercenaries as part of a broader trend of declaring foreign-born Ukrainian fighters under such a designation so as to not be subject to the Geneva Convention in their treatment.³⁷ While this move has been largely condemned by the international community, perspectives on the exact designation of volunteers and private contractors, if any, and its importance in the treatment of such persons by the justice system are highlighted in this instance and should be a factor one considers when devising potential reforms and solutions.

Position of Key Member Nations and Other Bodies

Russian Federation

As part of their goal to combat American influence in developing regions such as Africa, the Middle East, and South Asia, Russia has employed the use of private military companies to fulfill their objectives while also maintaining plausible deniability about said operations. Private military companies have also been employed by Russia in other areas as well, such as in 2014 as part of the ongoing Russo-Ukrainian War—also marking the first usage of private military companies by Russia—and Venezuela. In its current form, even though the usage of private military companies is illegal under Article 13.5 of the Russian Constitution, private military companies are still used alongside the traditional Russian military, if at all, in Russian international operations.³⁸ In all, while officially illegal under

³⁶ "Two Britons and a Moroccan Sentenced to Death by Russian Proxy in Ukraine," ABC, last modified June 10, 2022, <https://www.abc.net.au/news/2022-06-10/two-britons-and-a-moroccan-sentenced-to-death-in-ukraine/101141192>.

³⁷ Rustam Roy, "Soldiers of Fortune Not Subject to Geneva Convention, Says Russia on Americans Captured in Ukraine," WION, last modified June 21, 2022, <https://www.wionews.com/world/soldiers-of-fortune-not-subject-to-geneva-convention-says-russia-on-americans-captured-in-ukraine-490056>.

³⁸ Brian Katz et al., "Russian PMCs," Center for Strategic & International Studies, September 2020, <https://russianpmcs.csis.org/>.

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Russian law, Russia still has heavily relied upon private military companies to fulfill most of their military activities and has only further bolstered such doctrine as seen with the recent invasion of Ukraine.

United States

The United States is the most well-known country to have employed private military companies and their contractors since the industry's rise at the conclusion of the Cold War. Reaching its peak during the height of the wars in Afghanistan and Iraq, the U.S. Department of Defense had more contractors operating in the two countries than soldiers, making up 52 percent of the U.S. workforce in the respective areas in 2011. Similar to Russia, the United States employs private military companies for their military operations, allowing for greater flexibility in their activities while also having decreased perception of losses at home. Conversely, though, this is achieved due to the lack of regulation around the industry, which has led to abrupt contract withdrawals, abuse of prisoners such as in Abu Ghraib, as well as general negligence in the quality of services provided that had to be compensated for by the American military with little to no penalty for the contractors involved.³⁹ Still, private military companies are maintained as an integral factor in American military doctrine due to the aforementioned benefits accompanied by a lack of laws around their conduct.

United Kingdom

Although the United States houses the most famous private military companies like Blackwater (now called Academi), the United Kingdom has provided the greatest number of services mainly through the company G4S, the world's largest. Despite their private nature, the British government alone has spent around £50 million per year on contractors, with many working under G4S. Other UK-based companies also include Aegis Defense, which with G4S, was heavily involved in Iraq and Afghanistan under the British military. UK law is also similarly vague around private military companies like the United States, with there being no central database that distinctly monitors said companies alongside there being no need to register with the UK government. There is also a lack of transparency laws that have allowed many of their activities to both not be exposed as well as have their contractors only being lightly penalized, often coming in the form of a company apology or financial reimbursement.⁴⁰ In essence, the UK possesses a similar legal climate to the U.S. concerning private military companies, with similar purposes in their usage on top of the consequences of their vague status.

³⁹ "The Practical Guide to Humanitarian Law," Médecins sans Frontières, accessed July 16, 2022, <https://guide-humanitarian-law.org/content/article/3/private-military-companies/>.

⁴⁰ Iain Overton et al., "Britain Is the World Centre for Private Military Contractors — and It's Lamost Impossible to Find Out What They're Up To," openDemocracy, December 20, 2018, <https://www.opendemocracy.net/en/opendemocracyuk/britain-is-world-centre-for-private-military-contractors/>.

Sierra Leone

In the wake of a civil war, private military companies have maintained a prominent presence within the country. Employing both organized contractors and general mercenaries, the government utilized private military companies throughout the conflict to fight against rebel groups even as UN Peacekeepers arrived due to the latter group's ineffectiveness. Moreover, private contractors have continued to maintain stability in the country, with the success of dealing with their 2014 Ebola crisis partly attributed to the bolstered government and public health system set in place thanks to the stabilization efforts of private military companies.⁴¹ While the private military sector is known for their systemic abuse and negligence, the case study of Sierra Leone, while still imperfect, does highlight the possibility of private military companies having a positive effect on the global community.

Equatorial Guinea

While not having utilized private military companies themselves, the country has been subject to being attacked by them. The first notable instance in 2004, known as the Wonga Coup, involved South African mercenaries, under the financing of Mark Thatcher and the direction of Thomas Mann, attempting to overthrow the government in order to install a replacement that was more open to conducting business with British financiers. This was ultimately foiled, though, when their plane was intercepted by Zimbabwean authorities in the city of Harare.⁴² In 2018, the country also alleged that they foiled another coup attempt that involved mercenaries from Chad, Sudan, and the Central African Republic that were employed by the country's opposition parties.

While the details and verity of the latter coup remains vague,⁴³ the events represent the implications an unmoderated privatized defense industry can have on the stability of countries, that is, the employment of contractors and/or mercenaries to act in the interests of corporate interests in another country. Indeed, while other case studies bring to light how these companies are used by countries to carry out national interests, Equatorial Guinea's Wonga Coup specifically brings into question the power private companies and businessmen can possess, especially against developing countries.

⁴¹ Marika Josephides, "How Private Military Services Saved Sierra Leone: The Contracting Out of Military Duties Came from Necessity but Help Ensure Long-Lasting Security," In *On Africa*, December 1, 2014, <https://www.inonafrika.com/2014/12/01/how-private-military-services-saved-sierra-leone-the-contracting-out-of-military-duties-came-from-necessity-but-help-ensure-long-lasting-security/>.

⁴² Nick Smith, "The Wonga Coup: Transparency and Conspiracy in Equatorial Guinea," *Center for Strategic & International Studies*, January 23, 2008, <https://www.csis.org/analysis/wonga-coup-transparency-and-conspiracy-equatorial-guinea>.

⁴³ Jan Philipp Wilhelm, "Equatorial Guinea: Coup Attempt Leaves Many Questions," *Deutsche Welle*, January 1, 2018, <https://www.dw.com/en/equatorial-guinea-coup-attempt-leaves-many-questions/a-42086229>.

Colombia

In the wake of long-standing conflicts within the nation, a large military, lack of promotion opportunities, and lack of adequate pensions, tens of thousands of Colombian soldiers retire from the military on an annual basis to seek more lucrative opportunities in private military companies. This has meant that Colombia has become one of the largest sources of mercenaries and contractors alike, with many being employed around the world for various purposes. From protecting Emirati pipelines to fighting in Yemen on behalf of Saudi Arabia,⁴⁴ Colombian mercenaries, sometimes known as paramilitaries, most recently entered the spotlight due to their involvement in the assassination of the late Haitian president Jovenel Moïse. The Colombian government has called for greater efforts to address the infamous reputation garnered by their large mercenary population,⁴⁵ but little has been done in resolving the matter due to their economic and political instability. With the country's current condition, unless acted upon with the international community, the nation will continue to be a place private military companies will look to for contractors in the foreseeable future.

Saudi Arabia

As part of its Vision 2030 plan to localize more than half of its military equipment spending, Saudi Arabia has taken significant action in becoming a major hub of the private military sector. Among such moves, the country's Saudi Arabian Military Industries (SAMI), a subsidiary of the nationally-owned Public Investment Fund (PIF), bought Advanced Electronics Company (AEC) in 2021.⁴⁶ Being a defense and security services company, the acquisition of AEC by SAMI signified the prioritization of the private military sector in bolstering their local military spending. Indeed, this falls in line with Saudi Arabian military doctrine in their involvement in conflicts like those in Yemen. There, Saudi Arabia employs people from poorer countries like Sudan as contractors, particularly to fight against Iranian-backed Houthi rebels.⁴⁷ It should also be noted that this is all being done despite the country being a signatory of the United Nations Mercenary Convention, which bans such support and usage of private military companies, highlighting the lack of measures that enforce the treaty's terms.

⁴⁴ "Mercenaries: The Sinister Export from Colombia's Conflict," France 24, last modified July 21, 2021, <https://www.france24.com/en/live-news/20210710-mercenaries-the-sinister-export-from-colombia-s-conflict>.

⁴⁵ Oliver Dodd, "Colombia's Mercenary Industry Is Behind the Haitian President's Assassination," The Wire, August 2, 2021, <https://thewire.in/world/colombias-mercenary-industry-is-behind-the-haitian-presidents-assassination>.

⁴⁶ Ruba Obaid, "PIF Unit Makes Saudi Arabia's Largest Ever Private Military Industry Deal," Arab News, December 28, 2020, <https://www.arabnews.com/node/1784006/business-economy>.

⁴⁷ Quentin Müller, "Libya, United Arab Emirates, Yemen, Saudi Arabia: Former Sudanese Mercenaries Testify," The Africa Report, February 18, 2022, <https://www.theafricareport.com/177622/libya-united-arab-emirates-yemen-saudi-arabia-former-sudanese-mercenaries-testify/>.

Türkiye

Most notable for their usage of a private military company called SADAT International Defense Consultancy, Türkiye has vied for regional dominance in the Middle East, the Caucuses, and North Africa through the usage of Syrian contractors under the aforementioned company. Being deployed to conflicts in areas like the Maghreb to Nagorno-Karabakh, Türkiye has extensively utilized private military contractors as part of their new military strategy that involves a greater emphasis on the creation of an indigenous private military industry. While SADAT doesn't directly employ contractors that act as direct fighters, they nevertheless provide services that directs military factions as either military trainers or as consultants. SADAT's founder, Adnan Tanrıverdi, though, has also signaled for the direct involvement of SADAT in conflicts through the direct employment of fighters, citing recent defense agreements that Türkiye made with several African countries as a need to reform the company's strategy.⁴⁸ Although not as historic as the usage of private military companies in countries like the U.S., Türkiye represents a wider trend of Middle Eastern countries turning towards private military companies as part of their strategies to assert their foreign interests.

Suggested Solutions

Although outlined throughout the chair report, properly addressing the issue of private military companies will involve the consideration of several factors. It should also be noted once more that the focus of the agenda issue is around specifically regulating private military companies and their contractors, with any effect on the usage of mercenaries as a whole only being a secondary effect. This is done to implement more effective solutions, as the latter approach encompasses largely individual and disorganized groups that would be more difficult to cover.

In addition, delegates should keep in mind that a proper solution to the issue isn't necessarily the complete dissolution of the private defense military. Ethical implications aside, the practical matter is that private military companies have become deeply embedded into the military doctrine of both countries such as the U.S., UK, and Saudi Arabia as well as non-state actors like those seen in the Wonga Coup. Case studies like those in the Sierra Leonan Civil War also indicate the potential for private military companies to be a force that benefits the interational society. Instead, delegates should focus more on either establishing the foundation for such a gradual reduction of private influence on militaries or attempt

⁴⁸ Matt Powers, "Making Sense of SADAT, Turkey's Private Military Company," War on the Rocks, October 8, 2021, <https://warontherocks.com/2021/10/making-sense-of-sadat-turkeys-private-military-company/>.

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to reform the industry to truly integrate them into the military sphere, with both aims not being mutually exclusive.

With that being said, one of the most pertinent factors delegates need to consider is a method to properly enforce any international policy that is passed. The two international agreements that directly address mercenaries and, by extension, private military companies, are the United Nations Mercenary Convention and the Montreux Document. Both, though, possess major shortcomings that have led to them to become ultimately neglected by the international community.

In the case of the United Nations Mercenary Convention, the resolution attempts to explicitly ban any activity related to employing private actors for military operations. This also encompasses any support that Member States can give to them in a company's operations. While systemically addressing the issue of the mercenary community by outright banning their usage, the resolution has failed in attracting signatories from among major developed countries such as the Permanent 5, Colombia, and various Middle Eastern countries. Furthermore, agreement's signatories have also violated the terms outlined in the convention, with Member States like Saudi Arabia continuing to deploy mercenaries in combat areas like Yemen as well as expanding their general defense industry through mergers and acquisitions with private military companies.

Meanwhile, the Montreux Document, while not agreed upon by Russia, still has signatories from all other Permanent 5 nations on top of most European countries and South Africa, encompassing most areas where private military companies are located. However, contrary to the UN Mercenary Convention, the purpose of the agreement is more centered on outlining the ethical utilization of private military companies, rather than the general ban of mercenaries and private military companies alike. Still, due to its non-binding nature and lack of any regulatory body, the agreement's signatories have repeatedly violated its terms.

From all this, delegates should recognize the need for the proper establishment of a regulatory body that can enforce any international policy around private military companies. The purpose of this body can be to enforce the terms already in place by the UN Mercenary Convention, but delegates should then realize the possible need to adjust its terms to be more moderate in nature to better attract relevant Member States. In the case of the Montreux Document, while possibly representing such a compromise, should be noted to be an agreement that was made outside of UN authority, meaning that delegates must find a way to integrate its contents into a UN-appropriate legislation while also maintaining UN-values. In either case, though, delegates should be reminded that creating this enforcement would be somewhat

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difficult as all General Assembly resolutions are non-binding, but that creating a reliable institution is conversely feasible given proper deliberation.

Moreover, a way to formulate international statutes that outlines and protects private military contractors and mercenaries should also be implemented. The major reason why private military companies can exist and thrive in the modern market is due to their vague status in the laws of individual countries and the international community. This allows for a wider range of military operations that may not be possible with official soldiers due to the activity's controversial, dangerous, or unconventional nature.

However, this also means that contractors and mercenaries are subject to greater abuses, especially when becoming POWs. With the international community mostly relying on the Geneva Convention to determine their conduct in war, the lack of any explicit mention of private military companies nor any conditions that clearly includes them have led to arguments that contractors are not subject to the convention. This, on top of the decreased need for a country's governments to retrieve them in the case of capture, has led to many experiencing cruel punishments such as torture and long prison times as seen in the case of Frank Amadeo's contractors in the DRC and the Wonga Coup.

As of now, the only major entity that dictates international conduct around war and occupation is the ICRC, which enforces the Geneva Convention and all other IHL-related agreements. This means that in order to properly designate any rules around what counts as a private military contractor or their treatment, the agreement would have to ultimately be made alongside the ICRC to best achieve adherence to the newfound code. Reforming the Geneva Convention is also a viable possibility, as it has been revised several times in its history alongside the addition of amendment protocols to bolster its contents, but delegates would have to then look into how such revisions can take place, especially under the compulsion of the UN General Assembly. Regardless, though, this will be a foundational requirement in not only ensuring adequate treatment of contractors if captured, but also be a wider attempt at addressing the more illicit side of the industry, which is known for its secretive nature due to their openness to any profitable employment.

As a result, delegates should then keep in mind a system where private military companies are properly held accountable for their conduct is also a major point of concern. As seen from the Abu Ghraib prison scandal, vehicular accidents, white-collar crimes, abrupt contract withdrawals, and general misconduct, delegates should be cognizant of the high degree of freedom that has been granted to private military companies in their operations even at the detriment of their employers. On top of this, delegates

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should also note that the companies and their contractors involved in any of those instances faced little, and most often no, punishment when their government counterparts faced penalties under their country's military justice system. Adding onto the earlier point of enforcement in this section, delegates should not only be concerned with how rules can be enforced through a regulatory body, but also in directing Member States to properly prosecute any violations to such laws in their own countries, if not through an internationally recognized justice system. This, especially the latter approach, will be highly difficult, though, as the UN itself can't properly control private industry as well as many of these private military companies being multinational in nature, meaning that there is the possibility that they can escape jurisdiction, alongside other legal complications. Even with these considered, though, finding a reliable system of accountability is absolutely essential in the resolution of the agenda issue.

Finally, delegates should also keep in mind that the areas of consideration brought up in this section is, by far, not exhaustive. One fundamental issue that delegates should keep in mind is that private military companies is a mostly unexplored field of international affairs, with scant precedent on either an international or unilateral scale. While this means that there isn't any previous policy to base a majority of solutions off of, this also means that delegates possess a greater degree of freedom in their ideas, mainly in the UN directly tackling an issue so embedded in the private sector that is simultaneously overlapping in both the civilian and military spheres of society. In all, delegates shouldn't be reluctant to bring in novel, unorthodox ideas to the conference in attempt to set the foundation for future resolutions and policies down the line.

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