

Policy Brief

Private Military and Security Companies: A New Form of Mercenarism?

By Nihal El Mquirmi

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“Hiring outsiders to fight your battles is as old as war itself.” Peter W. Singer (2011)

Mercenaries, private contractors, soldiers of fortune, dogs of war, guns for hire, war lords ... These are some of the names given to individuals working for private companies that provide military and security services. The debate around the use of these companies is deeply polarized, with some authors portraying such military contractors as ‘messiahs’, praising their efficiency in modern conflicts and their expertise, while others perceive them as simple ‘hired guns’. However, the debate about legitimacy and legality aside, the privatization of security and of military forces is perhaps one of the most important changes in the security field in recent years. In the past three decades, Africa has seen a significant rise in, and consolidation of, the presence of private military and security companies (PMSCs). These companies have, in some cases, been hired by local governments, and in other cases by foreign countries interested in combining business activities with other political interests. In recent years, the presence of foreign fighters in the Central African Republic, Sudan, Libya, and Mozambique, among others, has sparked controversy and rekindled the debate about the new face of proxy war. The full extent and the long-term impact of the privatization of security and the military industry are still not fully understood, and this series of papers aims to provide a thorough analysis of this research gap.



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INTRODUCTION

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This Research Paper explores the extent to which contemporary PMSCs are different from mercenaries that operated during the decolonization processes in the African continent, as in most cases the predominant logic is still 'concessions for security'. Although some work has been done on the mercenary-civil war nexus (for example, Kinsey, 2007; Chojnacki et al, 2009), there is still only a limited literature that analyses the consequences of PMSCs and mercenary involvement, and each author reaches different conclusions (Cleary, 2002; Francis, 1999; Shearer, 1998; Vines, 2002).

To provide a thorough analysis of this research gap, the first section explains the methodology and establishes a comprehensive conceptual framework, in which the different definitional and conceptual ambiguities are highlighted and addressed. It also analyzes the different types of companies, and how the phenomenon of security privatization has challenged the Weberian assertion that the state has the monopoly over violence.

The second section provides a historical overview of the presence of different mercenaries in Africa since the 1960s, and the change that has happened since the 1990s, which has seen the emergence of new structured corporations known as private military companies (PMCs) or private security companies (PSCs). The debate about the legality of these corporations started to emerge in the early 2000s, and this section also analyzes the regulations, conventions, or attempts at regulating these companies, and highlights the lack of political will broadly to regulate their activities.

Finally, the third section compares the different companies currently operating in Africa—mainly Russian, Chinese, Turkish, Israeli, American, South African, and British companies—how they have re-shaped security dynamics on the continent, and if there truly is a difference between these companies and the 'old' form of mercenarism.

UNDERSTANDING THE PRIVATIZATION OF SECURITY

Addressing Conceptual Ambiguities

Despite the growing attention paid to PMSCs in the last few years, there is still a lack of information about what these companies really are, how and in what legal framework they operate, and for what purposes they are hired. Most of the literature is descriptive, focused on individual companies or single conflicts in which these companies have been involved. In reports and media articles, these corporations have also been labelled as 'mercenaries', asserting the need to continue the literature debate on how PMSCs differ from mercenaries. Authors and international organizations have considered PMSCs and mercenaries to be similar actors. The United Nations General Assembly, for example, considered PMSCs as "*new modalities of mercenaries*" (2007: 69), while Adams (1999), Musah and Fayemi (2000: 22-25), and Spear (2006: 16-19), claimed that despite PMSCs forming a corporate organizational structure that has a long-term business interest, they are not as different from mercenaries (Petersohn, 2014: 195). Other authors have focused their research on establishing clear differences between PMSCs and mercenaries on one hand, and regular soldiers on another, and have argued that "mercenaries are fighters lacking close and immediate control by a legitimate authority" (Petersohn, 2014: 195; Baker, 2011: 33; Percy, 2003).

On the other side of the debate, some authors have established a difference between mercenaries and PMSCs in that they consider PMSCs to be professional military service providers, since they provide a wide range of services and actors, including unarmed personnel providing logistical, consultancy, and training services, or even combat services, as will be explained below (Donald, 2006: 1-6; Shearer, 1998: 22). According to authors including Krahmman, Zarate, Percy, and Petersohn, there is a crucial difference between PMSCs and ad-hoc mercenaries in that the organizational structure of the former makes them act and employ force in a restrained manner: in other words, the looser the organizational form, the less integrated and restrained the actor is by the regulatory structure. Ad-hoc mercenaries are considered to be less integrated, as they act mainly in an individual form, and therefore, are expected to be more 'dangerous', and willing to use excessive force and violate human rights. In contrast, private contractors working for PMSCs are deemed to be more integrated in the control structure, and hence expected to employ force in a restrained manner (Krahmann, 2010: 6; Percy, 2007: 64; Zarate, 1998: 115; Petersohn, 2014: 195). The UN Working Group on the Use of Mercenaries defines a private military and/or security company as a corporate entity that provides, on a paid basis, military and/or security services by physical persons and/or legal entities. Military services include specialized services related to military action, including strategic planning, intelligence, investigation, land, sea or air reconnaissance, flight operations of any type, manned or unmanned, satellite surveillance, any kind of knowledge transfer with military applications, material and technical support to armed forces, and other related activities. Security services include armed guarding or protection of buildings, installations, property and people, any kind of knowledge transfer with security, and policing.

In this paper, the term 'mercenary' will not be used as a synonym for 'private contractor', as mercenaries are conventionally understood to be individuals based in units of operation and, thus, ad hoc in organization (Singer, 2002: 191). A mercenary is defined in Article 47 of Protocol I to the 1949 Geneva Conventions as "someone who: (1) is especially recruited in

order to fight in an armed conflict; (2) in fact takes a direct part in hostilities; (3) is motivated essentially by the desire of private gain; (4) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (5) is not a member of the armed forces of a party to the conflict; (6) has not been sent by a State which is not a party to the armed conflict on official duty as a member of its armed forces". However, this definition excludes most personnel working for PMSCs, because, due to how these companies work, it is almost impossible to prove the motivation of private gain, or if they are contracted to fight directly in military operations. The distinction between PMSCs and mercenaries is essential, as it affects the scope and application of international law and even national regulations¹. Moreover, in international law, private contractors—depending on the contract between the host state and the contracting state—are entitled to combatant or prisoner-of-war status in an international armed conflict. Unlike mercenaries, PMSCs are considered legal entities that are contractually bound to their clients, and maintain a permanent corporate hierarchy. Their legal constitution makes monitoring of their actions and prosecution easier than it is for ad-hoc mercenaries for numerous reasons. First, they are required to meet legal requirements, such as registration or export licensing. Second, there is a degree of transparency, as they have to provide their home state with their structure, employees, and signed contracts, which gives the state administration some control over the actions of the company. Hence, if the PMSC does not meet the set standards or breaks law, its license can be revoked (Zarate, 1998: 148). When a contract between a state and a PMSC is signed, the responsibilities, contractual ties, and the members of the company are likely to be known, which makes investigation by prosecuting authorities easier, as shown by trials of Blackwater's members' for their actions in Iraq, setting a precedent in international law (Dickinson, 2011: 45). In contrast, mercenaries are not bound by any law and are not required to provide documentation in order to operate, as they simply are under the state's radar (Petersohn, 2014: 196). Nonetheless, in theory, mercenaries and private contractors can be held accountable for war crimes, as explained by Doswald-Back (2007: 134).

Differences between mercenaries and PMSCs aside, it is important to note that there has not been a theoretical framework of analysis that has assessed the variety of companies and their impacts or, as Singer wrote, "no attempts to examine the industry from either an economic or a political perspective", or how the existence of these companies challenges security studies (Singer, 2002: 190).

A variety of definitions and terminologies are used to describe PMSCs. Within the academic literature there is a debate over the correct use of the varying terms. The different terms used to designate PMSCs include security providers, private military firms (PMFs), private military companies (PMCs), private contractors, private armies, private military corporations, military service providers, corporate security firms, or even mercenaries (Milliard in Janaby, 2016: 1). However, it is very confusing and incorrect to use the term 'military' company for a security company, as they provide completely different services. Thus, the changing nature of these companies plays into definitional and conceptual ambiguities, which are addressed below.

Private security companies (PSCs) generally do not make use of lethal violence and usually lack the capacity to engage in armed conflict (Abrahamsen and Williams, 2011: 178). Makki et al (2001: 4) defined PSCs as "corporate entities providing defensive services to protect individuals and property, frequently used by multinational companies in the extractive sector, humanitarian agencies and individuals in situations of conflict or instability". The

1. <https://www.montreuxdocument.org/pdf/regional/2015-11-12-Report-Ethiopia-Regional-Conference-PMSCs.pdf> Page 5

activities of these companies are usually treated as a 'private' issue, as long as they do not pose a problem to the symbolic pre-eminence of the state in the security field (Abrahamsen and Williams, 2011: 178). Usually, PSC personnel are unarmed. Companies in this category include G4S, Prosegur, Securitas AB, and ADT.

On the other hand, PMCs are defined as "corporate entities providing offensive services designed to have a military impact in a given situation that are generally contracted by governments" (Makki et al, 2001: 4). Chesterman and Lenhardt defined PMCs as "firms providing services outside their home states with the potential for use of lethal force, as well as training of and advice to militaries that substantially affects their war-fighting capacities" (2007: 3). Accordingly, PMCs are all private firms that offer military-related services, regardless of their specific nature (Isenberg, 2009).

A general and accepted definition of PMCs is provided by the Centre for Public Integrity, which defines a PMC as "a company that provides, for a profit, services that were previously carried out by a national military force, including military training, intelligence, logistics and offensive combat, as well as security in conflict zones". Goddard (2001) provided an even more detailed definition, stating that PMCs are a "registered civilian company which specializes in the provision of contract military training (instruction and simulation programs), military support operations (logistics support), operation capabilities (special forces advisors, command and control, communications, and intelligence functions), and/or military equipment, to legitimate domestic and foreign entities". Therefore, PMCs are profit-driven organizations that provide professional services linked to conflict and warfare. They are organized hierarchically into incorporated and registered businesses that compete openly on the international market, which not only distinguishes them from mercenaries, but also offers clear advantages in both effectiveness and efficiency (Singer, 2002: 7). Their profits are based on the success of their operations (Schreier and Caparini, 2005: 18). In other words, in a competitive market, customers search for the 'best' actor in terms of efficiency and cost; the reputation of an actor is an important indicator in this regard (Brauer, 2008; Brooks, 2000). As Petersohn explained, "for the mechanism to function properly a permanent corporate structure is required that builds a reputation and to which successes and wrongdoings can be attributed" (2014: 196). Hence, PMSCs are subject to what Akcinaroglu and Radziszewski (2012: 7) have called the "reputation mechanism", while ad-hoc mercenaries are not subject to this, as their network formation bypassed the reputation mechanism of markets (see also Petersohn, 2014). There are numerous cases of PMSCs either vanishing or reorganizing themselves after becoming publicly known to have committed crimes, violated international law, or provided substandard services, thus tarnishing the image and reputation of companies, leading them to become unsuccessful on the market (Percy, 2006: 53).

As Singer stated, the rise of the private military industry has made it "easier for clients to access capabilities that extend military activities that were once monopolized by the state, simply by writing a check" (Singer, 2004: 2).

Since they provide a wide range of activities and services, it is very difficult to categorize and differentiate PMCs and PSCs on the ground. As stated above, PSC personnel are usually unarmed; however, in recent years, there have been cases in which employees of PSCs in South Africa and Uganda were allowed to use firearms. The difficulty in categorizing the situation in the field constitutes a research challenge. Moreover, following certain strict laws prohibiting the use of mercenaries, and controversies surrounding the activities of companies such as Executive Outcomes, Sandline, and Blackwater, most PMCs have tried to distance themselves from offering—at least publicly—private offensive combat services

(Tonkin, 2011: 40; Schreier and Caparini, 2005: 34). Furthermore, most companies in recent years fit into both the 'military' and 'security' categories as they provide a great variety of services.

The unresolved issue of classifying these companies is one of the main reasons why the privatized military and security industry is not fully understood. Categorization is needed to differentiate companies and to explain the extent to which they challenge security governance. Nonetheless, in this research, the focus has been on the analysis of the nature and consequences of the involvement of these companies in armed conflicts, and the relationship between these companies and their home states, as there might be a continuity in the mercenary logic of 'natural resources or security' within the actions of PMSCs. Indeed, recent conflicts in which private contactors have been deployed, the involvement was, in most cases, aligned with their home country's external policy, which is why Kinsey defined them as "proxy military companies" (2006: 13-15). It has been the case with the Russian PMC Wagner in Sudan, Central African Republic and Libya; and also Turkish PMCs' involvement in Libya and Syria. The now extinct companies Sandline International, Executive Outcomes, and Blackwater (the latter is largely known for its involvement in the Iraq war) fell into this category.

For the sake of simplicity, in this paper, the concept of private military and security company (PMSC) will be used extensively, as it is a term that covers the full spectrum of activities undertaken by these companies and is more inclusive. PMSCs are, thus, defined as private companies that provide both military and security services to public and private clients, while implementing internal and/or external security policy goals. This definition allows the broadening of the conceptual framework by extending the spectrum of analysis to allow a better understanding of the privatization of security in some African countries, and the challenges this privatization poses for both the host country and the contracting state. Furthermore, the decision to use the concept of PMSCs will hopefully facilitate more objective perceptions on the part of policymakers.

Since the private military and security industry is still a largely unexplored topic, and the industry operates in a secretive manner, research is particularly difficult because of the lack of primary sources. The fact that this industry is still contested and constantly evolving explains why definitions vary, depending on which scholar, legal specialist, or military expert is consulted.

This paper considers all these challenges, and in order to avoid relying on incorrect or biased information, the method used compiles the analyses and comparisons of reported facts from different sources, to substantiate the given information. As this topic is extremely controversial, it is important to examine it objectively. As Singer argued, "the industry's ultimate legality is dependent on how academia and policymakers meld to understand it" (2008: 8).

Deconstructing Concepts: Sovereignty and Monopoly Over Violence

The privatization of security has not only deconstructed the Westphalian concept of 'sovereignty', but also Weber's assertion that the state had the monopoly over violence. Therefore, it has affected the relationship between the state and the use of force and, thus, has put into question the paradigms of interstate warfare, and the conventional conceptions of the state as the only holder of coercive power (Tonkin, 2011). However, it is important to emphasize that the rise of private security does not constitute a threat to the state per

se. As Abrahamsen and Williams (2011) and Krahmman (2005) argued, states do not lose or gain power via private security companies. However, the relationship between the state and other actors in the field of power is shifting, reconfiguring what we call 'state power'.

Moreover, the privatization of security does not mean that the state itself is disappearing. The state's role in the security sphere has reduced, just as it has in other international arenas such as trade and finance (Singer, 2002: 187). Nonetheless, as Singer (2008), Kramer (2007), Ortiz (2007), Mandel (2002), Avant (2005), Krahmman (2010), and Thomson (1994) stated, the use of private military force is not a recent trend. The novelty is in the scope and the growing number of PMSCs. As Moesgaard (2013: 8) argued,

"The relationship between state sovereignty and private force is not a new one; rather it is a dynamic that has played out for centuries. The establishment of the national state and the principle of sovereignty may have changed the way we perceive this relationship and the concepts we use to describe it, but private force precedes this and is therefore not as much of an anomaly as one might think".

Although it is not a recent trend, the last three decades have seen the rise and the consolidation of PMSCs, mainly due to the rise of neoliberal ideals post-Cold War. Market forces have played an important role in changing how we understand security (Abrahamsen and Williams, 2011: 25-26). Globalization has broadened our understanding of security, and since the end of the Cold War, security has been understood as a business in a world dominated by globalization and market opening (Isenberg, 2008; Chesterman and Lehnardt, 2007). Neoliberal values have pushed states to analyze the costs and benefits of privatizing public services, and there was a certain enthusiasm in the 1990s for outsourcing government services, since it was considered more efficient and effective compared to what Robert Mandel (2002) called "bloated overcentralized government bureaucracies". As Abrahamsen and Williams (2011) argued, "neoliberalism has acquired greater centrality in state policy, power has been redistributed in favour of elements of the state that are directly embedded in global structures [...]. As a result, decisions are made increasingly in the context of global markets and global imperatives" (172). Therefore, security is perceived as a commodity, and has become a service like any other that can be bought from a marketplace. The reluctance of certain states to send their national armies to fight in conflicts, and the decision to outsource security, challenge the notion of state monopoly over the use of force, and also raise questions about state legitimacy and accountability.

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About the Author, Nihal El Mquirmi

Nihal El Mquirmi is an International Relations Specialist within the Strategic Monitoring & Analysis Unit at the Policy Center for the New South. Her research focuses on North Africa, the gender-security nexus and the use of Private Military and Security Companies. Nihal joined the Policy Center for the New South in March 2019 following the completion of her M.A. in International Security at the University of Warwick, and her B.A. Hons in International Relations from Complutense University of Madrid. Prior to joining the Policy Center, Nihal interned at the General Consulate of Morocco in Brussels and at the Mission of Morocco to the European Union.

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The views expressed in this publication are those of the author.

Policy Center for the New South

Building C, Suncity Complex, Al Bortokal Street Hay Riad 10100 - Rabat

Email : contact@policycenter.ma

Phone : +212 (0) 537 54 04 04 / Fax : +212 (0) 537 71 31 54

Website : www.policycenter.ma

