Introduction

Since the end of the Cold War, Private Military Companies (PMCs) have grown many folds. This is because demilitarization after the Cold War provided many ex-soldiers for PMCs to recruit. PMCs provide a diverse array of services, from protecting important officials to serving as reinforcements in battle. Today, many nations rely on PMCs to provide assistance on the battlefront in addition to its own military. The use of PMCs provides nations with advantages on the battlefront in many aspects. As soldiers are outsourced to private contractors, nations can have lower casualty on paper. In addition, the industry allows troops to be deployed flexibly without bureaucratic delays. The benefits of PMCs results in the rising demand for it from clients spanning private individuals to the United Nations.

Despite its many benefits, the use of PMCs has led to many controversies. For instance, PMCs have engaged in many incidents of human rights violations, such as attacking unarmed civilians, sexual trafficking, and labour exploitation. The cases all question the reliability of PMCs. The fact that the private military industry is loosely regulated and opaque, which worsens the situation. In addition, many contractors are immune from legal prosecution despite committing horrific crimes. In other cases, PMCs have also interfered with government affairs by forming its own policies on the ground despite only being hired as security contractors. The many issues of the PMC industry means there is an urgent need to reform the industry.

Many attempts to alter the PMC industry have ended in limited success. International cooperation has resulted in the United Nations Mercenary Convention, a document that bans the use of mercenaries. Domestic demands have forced governments such as that of the United States to enforce American laws on PMCs abroad. Infamous violations of human rights by foreign PMCs has led the Iraqi government to revoke the extraterritorial right of private military contractors, thus making them subject to Iraqi regulations. Despite these efforts, legal loopholes remain open for PMCs to exploit. Therefore, increased international cooperation and government monitoring is needed for the industry.
Definition of Key Terms

Private Military Companies (PMCs)

Private Military Companies (PMCs), also called private security contractors or private security companies, are companies that provide special services during armed conflicts. Such services span from providing reinforcement soldiers to protecting personnel. The end of the Cold War resulted in widespread demobilization of troops, many who consequently turn to the private military industry for income. These already-trained soldiers allow the PMC industry to grow just as demands to outsource soldiers to the private sector were rising. By outsourcing soldiers, militaries have less accountability when engaging in armed conflicts. Another advantage of hiring the PMC is its murkiness in that PMCs are not tightly-regulated nor does it disclose information that national armies have to. The PMCs’ benefits together contributed to the rapid growth of the industry. The opaque nature of the PMC industry is of international concern and remains to be resolved.

Blackwater

Blackwater is one of the largest and most well-known private military companies. It is founded by a former Navy Seal, Erik Prince, in 1997. Starting with a training base in North Carolina, Blackwater has grown quickly after the United States begun the Iraq War. The contracted jobs of Blackwater has grown more and more complicated. At first, the company was tasked to guard important officials in Afghanistan and Iraq. Over time, Blackwater was charged with more important tasks, such as cooperating with the CIA to eliminate Al-Qaeda members in 2009. Blackwater’s revenue exceeded 1 billion USD in 2010, and the company’s further growth seemed unstoppable. However, many controversies erupted, such as the Nisour Square Massacre and sexual abuse of Jamie Leigh Jones. Resultantly, Blackwater changed its name to Academi to renew its reputation. As of today, Academi also provides services such as security consulting and armed forces training.

Extrajudicial Killing

Extrajudicial killing refers to when individuals are executed because they are claimed to have violated a crime. However, these individuals are executed before being given a proper, impartial trial, a procedure most consider to be a fundamental human right. Such extrajudicial killings are committed prevalently by many PMCs and is thus a important problem to be solved.

Humanitarian Laws

Humanitarian laws refer in general to principles that have to be followed to respect the fundamental rights every human is entitled to. Where there is no definite set of humanitarian laws these actors have to follow, there are a few basic ones that are usually respected. For example, civilians are not
to be the target of any military offense. In the context of PMCs, contractors are not allowed to kill civilians if they do not pose a serious security threat. Furthermore, basic rights of individuals such as to not be sexually assaulted, tortured, incarcerated are usually to be followed. There are many more humanitarian laws that are generally followed; some of these can be found in United Nation’s Universal Declaration of Human Rights (UDHR) document. (However, keep in mind that GA1’s agenda focuses mainly on individuals’ security rights and not on economic or political rights if these do not tie to security.)

**Background Information**

**The growing industry**

The private military industry is of recent development. In fact, the first company of such function is founded in 1985. Although countries have used mercenaries for centuries, the concept of mercenaries and private military companies are quite different. Mercenaries are soldiers hired from another country who serves formally in the national army that hires it. However, the soldiers hired from the PMC do not formally serve in the national army. Instead, they function as an independent unit and have the status of a civilian due to the lack of relevant legislations classifying them as soldiers.

**Context of growth**

The PMC industry grew remarkably after the end of the Cold War between the United States and Soviet Union. This is because the end of the Cold War resulted in demilitarization of both sides as the prospect of conflict decreased. Such demilitarization produced large amount of veterans without employment. As conflicts in less developed countries such as Afghanistan increased, nations began hiring PMCs to take charge of the battlefront. This resulted in the rising demand for PMCs and attracted many unemployed but well-trained ex-soldiers to enter the industry.

**Rising demand**

Many reasons contribute to the rising demand for deploying PMCs instead of national armies. The most notable of these is the industry’s lack of regulations. As PMCs are of recent development, it lacks both international and domestic legislations that regulate the industry. This results to two consequences. First, the PMC industry consequently lacks transparency and withholds information that conventional armies cannot withhold. Casualties in PMCs, for instance, do not have to be announced. Second, the PMC industry do not carry responsibility for inappropriate acts such as mistreatment of civilians. National militaries that deploy PMCs also do not account for PMCs’ casualties. The lack of regulation for PMC is thus a major advantage that contributes to the industry’s growth. Another advantage for using PMC is efficiency. In
conventional armies, deployment requires slow, burdensome approval processes within the government. However, deploying PMC is more efficient as the government approval process is not required. Together, these contribute to the advantages of hiring PMC, thus explaining the industry’s rising demand.

**Rising Disputes of PMC**

The many advantages PMC provides to its clients also contributes to its drawback: the prevalent violation of human rights. Such human rights violations include the gruesome harming of unarmed civilians due to mistrust. Torture and rape by PMC contractors are also not uncommon. Such tragic events contribute to the rising friction between local civilians and PMC personnel, which is ultimately, goes against the interest of the client in the long run.

*Dyncorp's Human Trafficking*

DynCorp, an American private military company, has been responsible for various human trafficking cases. In 1990s, two employees revealed that DynCorp has been engaging in sexual trafficking in Bosnia, where DynCorp was contracted for operation. The many brothels associated with DynCorp have also been disclosed. In response, DynCorp engage in retaliatory acts against the two employees including firing them and threatening their lives, thus forcing one of them into government’s protective custody. One of the employees, Kathryn Bolkovac, won a lawsuit against DynCorp for firing her and later became a well-known human rights advocate. Apart from being culpable for sexual trafficking, DynCorp was also reported of violating its workers labour rights. This is done by recruiting workers by promising high salaries but paying workers far lower salaries after they have been recruited and deployed to foreign countries. The many controversies DynCorp has rapped itself in, nevertheless, result in little punitive consequences due to the lack of regulations.

*The Nisour Square Massacre*

Perhaps one of the most infamous human rights violations engaged by the PMC, the Nisour Square Massacre demonstrated the structural issues of the industry. In 2007, four Blackwater military contractors opened fire on unarmed civilians in Iraq. This resulted in the death of 17 and injury of 20 others. Investigations revealed that these civilians pose no threat to the military contractors. Instead, the contractors open fired as a so-called retaliation against 9/11. These contractors were thus found guilty of murder in American courts. The consequences of the incident include higher tension between United States and Iraq, increased mistrust of PMCs, and the banning of Blackwater from operating in Iraq. This event marks the prevalent violation of human rights by PMCs.
Human Rights First

Human Rights First is an American human-rights advocating NGO that find the PMC industry problematic at its current state. According to its report, many flaws present in the industry are caused by the American legal system. First, Human Rights First believes that American justice system should more actively prosecute cases tied to the PMC industry. By doing so, contractors will not be free to commit criminal activities abroad without responsibility. Second, Human Rights First suggests that the US government pass more laws regulating the PMC. For instance, contractors should be treated by the same laws as American troops. In addition, PMCs should not have extraterritorial rights that make them immune from prosecution by foreign courts. Human Rights First believes that reforming the private military industry through government regulation could prevent PMC from violating human rights.

Blackwater

Blackwater is one of the most well-known PMCs in the world. The company considers the many criticisms against the PMC industry is due to political interests. Blackwater also denies the prevalent humanitarian concerns the private military industry has wrapped itself in. Nevertheless, data shows Blackwater to be responsible for large numbers of human rights violations. Data have shown that the Nisour Square is not the only incident. In fact, more than eighty percent of all shooting-incident...
Blackwater was involved in are initiated by Blackwater’s personnel. This suggests that Blackwater caused the majority of violent conflicts it engaged in. As a result of the many controversies it has surrounded itself in, Blackwater renamed itself to Academi and claimed to enhance its troop-training program to reduce the frequency of armed confrontations. In all, Blackwater is a committed proponent of the outsourcing of military duties to PMCs.

USA

The American government is the largest PMC client in the world. From the Iraq War to Syrian Civil War, the US Department of Defence has outsourced substantial amounts of security duty to private contractors. Less than half of the contracted troops have American citizenship, since contractors will often hire local subcontractors whose employees are not American. The use of contractors has largely reduced casualties of American troops on paper, as the casualties of American military contractors exceed the casualties of American troops. Despite its heavy use of military contractors, the American government have taken action to reform the industry. In recent year, for instance, US Congress has passed laws subjecting American contractors to more US laws and reducing their extraterritorial rights. Moreover, US government has also noted that contractors cannot take the place of American troops during important American military missions. At the same time, however, American government is increasingly reliant on military contractors. In 2014, more than 100 billion USD was spent by Pentagon on PMCs, which is four percent of US government’s total annual budget. Many problems still persist in the industry, since the hiring of subcontractors by PMCs create legal loopholes that make regulations more difficult to enforce. Altogether, PMCs play a key role in American defence and the US government continues to reform the PMC industry.

Figure 2. Graph of the growing numbers of US hired military contractors
Iraq

Iraq has been one of the many victims of the United States' use of PMCs. There have been many cases of human rights violation by PMCs in Iraq. However, over time, the Iraqi government has passed legislation that disciplines or ban certain PMCs from deployment in Iraq as a result of these PMCs’ violation of human rights. Nevertheless, many PMCs remained in Iraq as a result of foreign governments’ military operations. Just like many countries where PMCs have been deployed, Iraq emphasizes the importance for human rights to be respected by these PMCs and is active in confronting such violations.

Timeline of Events

<table>
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<tr>
<th>Date</th>
<th>Description of event</th>
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<tr>
<td>1985</td>
<td>Logistics Civil Augmentation Program was established by the United States government to prepare for the government’s use of PMCs to assist military operations.</td>
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<tr>
<td>December 4th, 1989</td>
<td>The United Nations General Assembly drafted the United Nations Mercenary Conventions as its resolution 44/34 to ban the training, recruitment, deployment, and use of mercenaries</td>
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<td>December 1996</td>
<td>Blackwater was founded</td>
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<td>October 20th, 2001</td>
<td>United Nations Mercenary Convention, ratified by 35 member states entered into force</td>
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<td>August 2nd, 2002</td>
<td>Kathryn Bolkovac won a lawsuit against DynCorp for unfair dismissal because she disclosed the sexual trafficking DynCorp was involved.</td>
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<td>March 2003</td>
<td>The United States military begins operations in Iraq, thus helping PMC industry grow by offering opportunities for contracts involving the protection of US government personnel in conflict zones</td>
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<td>June 2004</td>
<td>The Coalition Provisional Authority, a transition government of Iraq established by the US government, issued Order 17 that made private military contractors invulnerable from local Iraqi law</td>
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<tr>
<td>July 4th, 2005</td>
<td>UN Commission on Human Rights passed resolution 2005/2, which denounces the use of mercenaries due to human rights violation</td>
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<tr>
<td>February 16th, 2007</td>
<td>The US Congress passed the Transparency and Accountability in Military and Security Contracting Act, which requires US government agencies to have...</td>
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oversight of contracted PMCs, ensured that PMC contracting data was assessable by the government, and made PMC personnel subject to US laws when operating abroad.

September 16th, 2007  The Nisour Square Massacre took place in Iraq, leaving 17 dead and 20 injured. The Iraqi government announced the withdrawal of Blackwater’s license to operate in the country as a military contractor due to the Nisour Square Massacre.

September 17th, 2007  The Uniform Code of Military Justice was modified to allow the prosecution of military contractors deployed in armed conflicts.

2007  The Swiss Government and International Committee of Red Cross proposed the Montreux Document on Private Military and Security Companies, which lists the legal obligations states when using PMCs.

2008  The United Nations broke precedence by contracting a British PMC, IDG Security, to provide 169 Nepalese troops protect UN personnel stationed in Afghanistan.

2010  Security, to provide 169 Nepalese troops protect UN personnel stationed in Afghanistan.

2011  The American PMC, Blackwater, was renamed to Academi.

Relevant UN Treaties and Events

- International Convention against the Recruitment, Use, Financing and Training of Mercenaries, 4 December 1989 (A/RES/44/34)
- Use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination, 12 December 1997 (A/RES/52/643)
- The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, 7 April 2005 (E/CN.4/RES/2005/2)
- The Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict, August 2009

Previous Attempts to solve the Issue

United Nations

The United Nations have made substantial progress to resolve the issue. Many resolutions have been passed to eliminate the use of mercenaries and regulate private military companies. For instance, General Assembly resolution 44/34 at the 72nd plenary session established the United Nations Mercenary Convention that banned the use of mercenaries. However, only thirty-five member states.
have ratified the convention. More importantly, the countries that are the most reliant on private military companies such as the United States, United Kingdom, France, Russia, China have not yet ratified the convention. Thus, the efficacy of the convention remains limited more work in the UN has to be done to regulate the PMC industry.

NGOs

Many NGOs have also assisted in alleviating the human rights concerns of the PMC. The International Committee of Red Cross, for instance, have published legal obligations for the use of PMC. Human Rights First, on the other hand, have published reports outlining the problems and possible solutions for the humanitarian issues the use of PMCs create. These have created large impacts by raising awareness of the issues. For instance, the DynCorp’s sexual trafficking case has turned into a movie. However, more work still has to be done. The resolutions published by these NGOs are not binding while documentations of the crimes committed by security contractors only have limited impact on government policies. Many lobby groups advocating PMCs continue to discourage government regulation. Therefore, NGOs have to persist in their work to spread awareness of the issue.

Government Legislations

Governments have made limited impacts on ensuring that PMCs do not violate human rights. For instance, US Congress has passed laws that increase the legal accountability of private security contractors. In addition, the Iraqi government has repealed laws that provide foreign contractors immunity from local laws. Nevertheless, the PMC industry continue to remain murky and legal loopholes still exist. At the same time, reliance of the PMC has continued to grow. Even the United Nations has begun to rely on PMCs. Reforms of the industry have to be continued.

Possible Solutions

Many different solutions have to be implemented to improve the humanitarian issues PMCs create and make the industry more transparent. First, governments have to more clearly establish the legal status of PMC. This may include the laws that PMCs have to follow and the laws that they are immune from. This also needs to include the limitation of PMCs’ rights to interfere with public affairs for private interests. There also has to be a clear line drawn to distinguish a PMC personnel between being a civilian or soldier. The court at which the PMCs are to be prosecuted also has to be more clearly defined, whether it is military or civilian.

Second, to make the PMC industry more transparent, a task force may need to be established to obtain information about each security companies’ performance. For instance, the amount of casualties inflicted and received by PMC have to be acquired. Other information, such as the tendency for conflicts
to be initiated by the PMC itself, also have to be reported. The contracting of subcontractors also have to be kept clear note of and regulated. By obtaining such information, PMC companies will have to be better maintained, such as more actively preventing conflicts from occurring to the first place because data will be kept track of.

Thirdly, an international standard for the PMC industry has to be established. This means the laws regulating PMCs have to be similar in different countries to prevent PMCs from escaping legal responsibility by moving to another country. By upholding the same standard for PMC internationally, PMC will have no choice but to follow regulations. Moreover, such regulations have to be enforced more strictly with the standard of a military court and military criminal investigations. By having a military-standard disciplinary system, the inclinations for PMCs to initiate armed conflicts by the slightest provocation could be reduced. Firearms will only be used when necessary, thus preventing tragic incidents such as the Nisour Square Massacre from happening.

Bibliography


<http://www.un.org/documents/ga/res/44/a44r034.html>


<http://www.independent.co.uk/news/africas-new-enforcers-1363564.html>


Appendix or Appendices

I. This is a helpful timeline of Blackwater and regulations of the PMC industry:

II. This is the Montreux Document on Private Military and Security Companies, drafted by International Committee of Red Cross that outlines legal obligations of PMCs