

# Privatising security and war

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**State security functions normally carried out by national armies or police forces are being outsourced to private military and security companies in countries where conflict is displacing many people.**

The development of private military and security companies (PMSC) has produced a new breed of security guards and private soldiers engaged in war zones and highly insecure areas under murky legal restraints. Their activities blur the borderlines between the public services of the state and the private commercial sector, creating a dangerous 'grey zone' with no transparency, no accountability and no regulation. Their activities, together with those of paramilitaries and mercenaries, are having an increasingly negative impact by causing forced displacements and human rights violations in general.

The PMSC industry fulfills a number of tasks which were traditionally carried out by national armed forces and the police. Governments, inter-governmental and non-governmental organisations, transnational corporations, humanitarian organisations, the media and international organisations are increasingly using their services. This army of private security guards constitutes the second largest force in Iraq after that of the US Army. In Afghanistan, the figures released in April 2010 by the US Department of Defense

indicate that there are 107,292 hired civilians and 78,000 soldiers.

The use of private military and security companies in humanitarian operations has blurred the distinction between humanitarian non-profit organisations and private profit-making corporations. In conflict or post-conflict areas, such as Afghanistan and Iraq, where PMSCs increasingly provide security to humanitarian NGOs, it has become

difficult for the local population as well as government officials to distinguish humanitarian assistance from intervening force.

Capitalising on this, one security company regularly put an advertisement in the *Journal of International Peace Operations*<sup>1</sup> in relation to its activities in Afghanistan, Somalia, Congo, Bosnia and Herzegovina, Sudan and Iraq displaying a picture of an individual feeding a malnourished baby with the following message:



"Through selfless commitment and compassion for all people, Blackwater works to make a difference in the world and provides hope to those who still live in desperate times."

## Afghanistan

The population of Afghanistan is concerned by the lack of regulation and accountability of the private security companies in an environment of a failed state and post-conflict situation. In armed conflicts and post-conflict situations PMSC employees, contracted as civilians but armed as military personnel, operate with an ambiguous status which can transform

them from a 'civilian' into a 'combatant' at any moment.<sup>2</sup>

In many instances the local population in Afghanistan perceives employees of PMSCs as contributing to insecurity by perpetuating a 'culture of war', and is concerned about the lack of transparency and accountability of PMSCs and their employees. Private security guards who are in civilian clothes, do not wear any identification and travel in unmarked vehicles are dangerously blurring the lines between humanitarian actors working in the country and security forces. Afghans also appear to think that funds needed for reconstruction are being diverted to pay private security companies, which may paradoxically prevent the stabilisation of peace in the country. The belief that private security guards are making the country more unstable in order to keep their jobs is also widespread among Afghans.

Private security companies are also sending the message to the local population that security is not a public commodity and that it is only available to rich expatriates or wealthy Afghans. Many Afghans also look on private security companies as private militias and associate them with warlords and criminal gangs.

### Iraq

In Iraq, by Order 17 issued by the Administrator of the Coalition Provisional Authority (CPA) in June 2004, contractors were immune from prosecution during the three years of the CPA. Similarly in Colombia, any abuses which may be committed by US military personnel and private contractors working under Plan Colombia can be neither investigated nor prosecuted. Furthermore, following a 2003 agreement between Colombia and the US, the government of Colombia would not be able to submit to the jurisdiction of the International Criminal Court any US armed forces personnel or US private contractors working for transnational private security companies who have committed crimes against humanity.

In Iraq as in Afghanistan many security functions have been privatised using contractors which have been able to operate with

impunity. However, the extent of human rights violations by these contractors has obliged the authorities to react. In Afghanistan there have been some efforts to establish legislation to regulate and monitor the transnational security companies operating in the country. Early versions of the draft law on private military and security companies were rejected by the Ministry of Justice and the Supreme Court because they were in conflict with the Afghan Constitution (2004), which grants the monopoly of the use of force to the state, as well as in conflict with the Police Law of September 2005, which lists the duties and obligations of the police as including public order and security.

In Iraq, after the indiscriminate shooting of 16 September 2007 in the populated neighbourhood of Mansour in Baghdad, in which Blackwater<sup>3</sup> security contractors protecting a US State Department convoy opened fire on civilians killing 17 persons (including some children), Blackwater was expelled and all its activities suspended in the country – and all private military and security companies operating in Iraq were reassessed. The privatisation of security has challenging implications for accountability in the current context of Iraq and Afghanistan and it is likely to have a longer-term impact on the populations' perception of justice and the rule of law.

### End notes

The PMSC industry is transnational in nature and is growing very rapidly, particularly since the beginning of the recent conflict situations in Afghanistan and Iraq, with an aggregate estimate of contracts between US\$20 billion and \$100 billion annually. Since 2001 the use of these private contractors to support operations in Iraq, Afghanistan, Somalia and other failed states, and the human rights violations in which they have been involved, have become the focus of international attention. It has generated debate about the type of functions PMSCs should fulfill, the norms under which they should operate and how to monitor their activities. To respond partly to these concerns the two governments where most of the security industry

Over 5.5 million hectares have been appropriated by paramilitaries, government officials and agro-industrial corporations from Colombian peasants, thousands of whom were internally displaced or killed throughout the 1980s. A former senior officer in the Israeli Defense Forces, Yair Klein, established a private military and security company named Spearhead Ltd through which he participated in the training of right-wing paramilitary groups in Colombia. Members of these were responsible for grave human rights violations, the assassination of peasants, widespread land theft and displacement of populations in Colombia.

In 2001, Klein was tried in absentia by the Criminal court of the Manizales District in Colombia, found guilty of providing training to paramilitary groups and drug traffickers, and sentenced to 14 years' imprisonment. Klein is currently in Israel.

(70%) is located, UK and USA, with the government of Switzerland and the security industry itself, launched the Swiss Initiative<sup>4</sup> based on the idea of self-regulation.

Because of PMSCs' impact in the enjoyment of human rights, the UN Working Group on the Use of Mercenaries (WGUM) is convinced that a legally binding instrument regulating and monitoring their activities at the national and international level is necessary.

A resolution dissociating the activities of PMSC from the traditional resolution on mercenaries was tabled in 2010 at the UN Human Rights Council in Geneva. Although adopted by a large majority, the delegations of the Western Group generally voted against the resolution, a clear indication of the interests of the expanding security industry.

Having been adopted by the Human Rights Council the resolution opens up a process for all stakeholders to elaborate an international framework to regulate and monitor the activities of private military and security companies. The elements and the draft text of a possible Convention presented by the WGUM will be one among many other initiatives

for the elaboration of such an international regulatory framework. For this process to succeed, it will be necessary for public opinion and civil society of Western countries to bring enough pressure to bear on their respective governments.

In addition, national governments, as shown above, can be and should be encouraged to take on this task in their own countries where PMSCs are operating, although the examples show that they tend to

take action only after abuse becomes unacceptably great or visible.

It would certainly help also if multinational, humanitarian and media organisations, for example, took a more thoughtful and responsible attitude towards employing or cooperating with these organisations.

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1. Publication of the International Peace Operations Association and the Peace Operations Institute, vol. 2, No. 4, January/February 2007, Washington <http://issuu.com/ipoa/docs/> In November 2010, the International Peace Operations Association changed its name to International Stability Operations Association.
2. UN Report of the Working Group on the Use of Mercenaries to the Human Rights Council [http://www.unwg.rapn.ru/ru/4/Annual%20Reports/2\\_\\_G0811295.pdf](http://www.unwg.rapn.ru/ru/4/Annual%20Reports/2__G0811295.pdf) ; UN Report of the Working Group on the Use of Mercenaries to the General Assembly [http://www.unwg.rapn.ru/en/4/Annual%20Reports/2\\_\\_N0652080.pdf](http://www.unwg.rapn.ru/en/4/Annual%20Reports/2__N0652080.pdf)
3. Now called Xe Services.
4. <http://www.eda.admin.ch/psc>