

<b>Forum</b>	General Assembly One – Disarmament and International Security
<b>Issue</b>	Establishment of legal framework for regulations and rules of private military companies
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## Introduction

Ever since the emergence of empires and kingdoms, human beings have always been willing to privatise and dominate the International Security. As a result, privatisation of wars and battles roamed free throughout the globe, especially through means such as Private Military Companies and Mercenaries. In spite of the drop in the usage of PMCs during the 19<sup>th</sup> century, such companies, which provide military, security, and intelligence to governments with charge, skyrocketed in the 1960s due to the issues arose in Africa regarding to the inability of their governments with mediating conflicts.

Although Private Military and Security Companies poses significant strength in terms of security and military, if willing to pay the required price, any private person or company can also be offered with any and all forms of possible services, which eventually increases the possibility of abuse and misuse of the force. Their tasks include logistics, intelligence, support, security/protection, and provision of soldiers, arms and ammunitions, and tactical military assistance in warfare.

As modern PMSCs function in a legal vacuum, a grey zone is formed without any accountability and clarity, and due to the lack of legislations upon them, a myriad of insurgent groups and organisations with enough money are allowed to employ PMSCs, further causing problematic issues. For the past few years, PMSCs have been accused of being engaged in a number of human rights violation acts, including sexual harassment, rape, the abuse and torture of detainees, destruction of properties, the murder of innocent civilians, human trafficking and weapons proliferation. As such, entities such as Amnesty International are taking objection to such human rights violation acts conducted by PMSCs, and are demanding such PMSCs to be brought to justice.

## Definition of Key Terms

### Private military companies

Private Military Companies are corporate entities providing a variety of military services to their clients. One of their major clients is the government. Some renowned PMCs are MPRI from the United States and the Sandline International from the United Kingdom.

### Private security companies

Private Security Companies are easily confused with PMCs due to their similar characteristics. However, PSCs provide defensive security services in order to protect individuals and their properties. In spite of the unclear distinction between PMCs and PSCs, the most distinct characteristic that differentiates PSCs from PMCs is that PSCs are intermittently unarmed and aim to protect the property of a personnel rather than leaving an impact during conflicted situations. Some renowned PSCs are DSL from the United Kingdom and Wackenhut from the United States.

### Mercenaries

Mercenaries are individual combatants fighting in foreign conflicts for financial gain.

### The Montreux Document

The Montreux Document describes international humanitarian law and human rights law as it applies to the activities of private military and security companies during armed conflict. It also contains a compilation of good practices designed to assist states in implementing their obligations under international law through national measures. The Montreux Document was the result of a joint initiative between Switzerland and the International Committee of the Red Cross and included representatives from governments, industry, and civil society.

### Legal Vacuum

A Legal Vacuum is essentially a situation for which there are no laws present or enforceable.

## Background Information

## History and background

The origin of PMSCs can be traced back to the American Revolution in the 1960s, when Sir David Stirling and John Woodhouse founded WatchGuard International; which eventually led PMSCs to be in vogue. Soon after, Air Scan and Blackwater – US-based PMCs - were formed in 1984 and 1997 respectively, and the Aegis Defense Service – UK-based PMC – emerged in 2002.

PMSCs are actively involved in a myriad of conflicts, including Iraq, Afghanistan and Pakistan. The most notable involvement of PMSCs was in Iraq. In 2003, while Iraq was struggling due to their loss of government and authority, US supported Iraq by initiating Operation Iraqi Freedom. At that time, many nations including the United Kingdom, Australia, and Poland, hired several renowned PMSCs such as Blackwater and Aegis in order to provide support for Iraq. Letting PMSCs to be involved in the conflict was in fact very successful as the nations could provide support to Iraq without being directly engaged.

However, many problematic issues regarding to PMSCs started to arise within Iraq, including human rights violation, sexual harassment, slavery, rape, child kidnapping, to name a few. The Nissour Incident, which happened on the 16<sup>th</sup> of September, 2007, can be seen as the climax of such issues due to the casualties it brought – 17 innocent deaths of women and children in Baghdad. This traumatic incident triggered Montreux Document to be signed in 2008, which was the first document defining regulations of PMSCs.

## Benefits of Private Military and Security Companies

Although the issues regarding to the justice of PMSCs remain controversial, several nations, in particular, the United States, advocate PMSCs. As seen in Iraq, Afghanistan, and Pakistan, PMSCs provide military assistance and intelligence during conflicts as cost-efficient peacekeeping forces. Since they regulate and control the situations in designated regions without any forms of personal involvement, and they are not state military forces and thus direct involvement of supporting nations is minimised, the host nations prefer them. Also, as PMSCs provide military advices and training programmes to the host nations, they not only enable the host nations to be well-equipped to handle further conflicts on their own, but also reduce the necessity of funding from other nations which allow them to be less dependent on other nations.

## Key Issues

## Absence of Legislations regulating PMSCs

Due to the lack of legislations and regulations upon PMSCs, their unethical acts against innocent civilians are somehow justified. Despite the efforts United Nations have contributed in order to resolve such issues, ambiguity still roams free as it has been almost impossible to reach global consensus because major member nations such as the US and UK have opposed the terms and agreements.

## Violation of human rights

PMSCs have been committing heinous human rights violations in conflicted regions without being brought to the justice. The most notorious incident is the Nissour Square Massacre in Baghdad, Iraq in 2007. The US-based PMC – Blackwater – brutally murdered 17 innocent civilians including women and young children, and further injuring 20 more. Sadly, this is not the only one tragedy happened, but there are numerous cases of innocent lives being taken by the PMSCs. Furthermore, adding on to the murder, there have been vast amount of claims of abuse, vandalism of property, sexual harassment and rape, human trafficking and weapons proliferation, just to name a few.

## Major Parties Involved and Their Views

### United States of America

As United States has undergone several terrorist attacks and conflicts, it has been actively engaged in the cooperation with PMSCs such as the Blackwater. Also, United States is renowned for hiring troops of the PMSCs and sending them to conflicted regions as peacekeepers. For instance, United States has sent several troops of the Blackwater and Airscan to Iraq in 2003. Bearing this and other factors in mind, United States can be seen as one of the most powerful advocate of PMSCs.

Considering the issues of regulations and management of PMSCs within the United States, more than 20 federal bodies and committees are inspecting and reporting their activities under a complicated set of regulations and laws. As such, the Congress is capable of responding to any and all relevant issues rapidly.

### United Kingdom

United Kingdom is on the same page with the United States, advocating PMSCs. United Kingdom also has one of the largest PMSCs in the World – the Aegis Defense Services. Aegis has also actively been involved

in conflicted regions such as Iraq and Afghanistan.

Considering the issues of legislations and inspection of PMSCs within the United Kingdom, British Association of Private Security Companies (BAPSC) monitors all forms of activities and industries relevant to PMSCs, strengthening its security and reassuring that the code of conduct is not violated.

### **Afghanistan**

Bearing in mind that Afghanistan is one of the most conflicted regions as detrimental organisations such as al-Qaeda have been residing within the nation, national security has been one of their utmost priorities. As such, a myriad of PMSCs are operating in the Afghan conflicts although Afghan government has recently expressed its wishes to eradicate PMSCs and rather transfer their duties and responsibilities to the government-run guard forces.

### **Constellis**

Founded in 2003, Constellis Group is a US-based conglomerate – a group of PMSCs providing security, training, advisory to other organisations and nations in need – composed of Acaemi (formerly known as Blackwater), Triple Canopy, Olive Group, Strategic Social and Edinburgh International. In spite of the fact that Constellis has played a big role in maintaining the security and stability of several nations including Iraq and Afghanistan, controversies still roam free. One of the most controversial companies of Constellis is known as the Academi as it has been accused of violation of human rights and illicit extraction of resources from operating regions.

### **International Code of Conduct Association (ICoCA)**

Founded by Switzerland, the International Code of Conduct for Private Security Service Providers (ICoC) aims to solidify international standards and principles for PMSCs, and to articulate human rights responsibilities and obligations. In November 2010, as 58 PMSCs signed to the ICoC, it was finally finalized, and by September 2013, 708 PMSCs have officially agreed upon to operate under the Code of Conduct.

## Timeline of Events

Date	Events
1954	<b>Breakout of Algerian Revolution</b> <ul style="list-style-type: none"> <li>• signifies the start of the African Revolution,</li> <li>• leads to the growth of PMSCs</li> </ul>
1978	<b>Ba'ath Party in Iraq comes under control of Saddam Hussein</b> <ul style="list-style-type: none"> <li>• Strengthens the necessity of PMSCs</li> </ul>
1997	<b>Formation of the PMSC – Blackwater - in the United States of America</b>
2002	<b>Formation of the Aegis Defense Service in the United Kingdom</b>
2003	<b>US-led invasion of Iraq</b>
2004	<b>Four employees of the Blackwater killed in an ambush in Fallujah, Iraq</b>
16 September, 2007	<b>Nissour Square Massacre</b>
2008	<b>The Montreux Document is signed</b>
2011	<b>US military is pulled out of Baghdad</b> <ul style="list-style-type: none"> <li>• replaced by eight PMSCs including Aegis and DynCorp International</li> </ul>
2014	<b>Constellis (US-based PMSC) takes control of the Academi (formerly known as Blackwater)</b>

## Relevant UN Treaties and Events

- 4 December 1989 (A/RES/44/34)

- 7 February 2007 (A/HRC/4/42)
- 8 October 2008 (Montreux Document)

## Evaluation of Previous Attempts to Resolve the Issue

### UN Convention against the Use of Mercenaries (1989)

Being adopted at the 72<sup>nd</sup> meeting on the 4<sup>th</sup> of December, 1989, the United Nations Mercenary Convention (International Convention against the Recruitment, Use, Financing and Training of Mercenaries) is a treaty constraining the activities of mercenaries which entered into force on the 20<sup>th</sup> of October, 2001.

However, only 33 nations have approved and admitted the convention, and a large proportion of nations contracting PMCs has not yet signed. In addition, due to the unclear definition of mercenary, PMCs have already exceeded the restraining boundaries. Bearing this and other factors in mind, the convention needs further elaboration in order to gather more relevant nations to it.

### Montreux Document (2008)

Since 2006, Switzerland has cooperated with International Committee of Red Cross (ICRC) in order to resolve the issues concerning the PMSCs. In 2008, 17 nations have reached consensus on relevant issues and proclaimed the Montreux Document, which has been developed by a myriad of experts from 17 nations, aiming to regulate any and all forms of relevant activities of contracting states, territorial states and home states.

Although the Montreux Document clarifies the standards and responsibilities of PMSCs, the document is not a legal binding instrument, which eventually led it to not have any significant impact on PMSCs.

## Possible Solutions

### Classification of PMSCs

Identification and categorisation of each PMSC can be seemed as the most fundamental step to the regulation and control of PMSCs since it will make a lot easier for the United Nations to keep PMSCs under surveillance. Also, to further resolve the conflicts, a specialised committee on PMSCs should be set up in

order to monitor and regulate their activities.

### Regular Assembly of the Leaders

The leader of each PMSC should gather together regularly in order to ensure every terms and conditions set by the United Nations are maintained and implemented, in particular, those regarding to human rights violation and disarmament of unauthorised weapons. However, the regulations and any agreements will be discussed among them in order to ensure any forms of dissonance are minimised and thus reaching consensus. As such, the leaders will have to be responsible for any violations.

### Conferences specialised on Issues of PMSCs

The UN should conduct conferences solely discussing the role of PMSCs, to resolve any and all forms of dissonance among them which not only enable representatives of each nation to express their respective views on PMSCs, but also help every nation to alleviate any conflicts and issues they may face.

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