

Protecting People: the PMC Potential

Comments and Suggestions for the UK Green Paper on Regulating Private Military Services

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Introduction

The Foreign and Commonwealth Office should be commended for their examination of practical options for the regulation *and* potential use of Private Military Companies (PMCs). The concept of private military services understandably strikes emotional chords with many, making rational assessment difficult. However, attempts at eliminating the trade in military services, while well meaning, are both unrealistic and potentially harmful to the people we should most want to help: civilians caught in conflict.

Given adequate guidelines and regulations, companies offering military services can do much to address the massive security vacuum people in developing countries endure today. While there is general acceptance for the use of private security companies to protect mines and oil facilities in areas of armed conflict, it is ironic that protecting people is a concept still jealously reserved for state militaries. Western governments' reluctance to use their own capable militaries for humanitarian interventions or international peace operations in even the direst of circumstances has played into the hands of warlords and dictators while allowing the deaths of hundreds of thousands of innocent civilians. PMCs can go where Western militaries fear to tread and protect or even rescue those the World abandons.

Getting to the point where legally contracted companies can robustly enhance armed peace operations requires rational discourse among key actors. PMCs have always been willing to dialogue with NGOs, academics and others to establish appropriate guidelines for their operations. Deliberate decisions by a number of key NGOs to exclude PMCs from conferences and discussions on the topic have resulted in a situation where ill-considered attempts to eliminate the industry have been overwhelmed by the worldwide demand for private security services. As a result, few

attempts at rational regulation have been attempted outside of the United States, leaving the private military services industry largely self-regulated. This underscores the timely and critical nature of this Green Paper.

What is abundantly clear is that the West has largely abrogated any responsibility to directly assist with enhancing security and stability in developing countries, and millions of people are suffering as a result. If private firms can address this demand for security either by protecting economic assets and humanitarian operations while still making a profit, then they should be supported, not hindered. In some cases private firms have been all that stood between peace and humanitarian catastrophe. Legislating these firms out of existence without providing a realistic alternative would be just plain immoral.

Those critical of “PMC peacekeeping” *must* articulate alternatives. They must prove that the theoretical potential harm outweighs the enormous potential benefit. The current reality is that ineffective peacekeepers make for ineffective peacekeeping and absent armies make for unchecked genocides. PMCs offer a ready and willing option and are prepared to support appropriate regulations on their operations.

This paper will offer an alternative for categorizing these companies, some key issues that should be kept in mind when designing regulations, and briefly discuss the critical role of PMCs in peace operations.

Conceptualizing Private Military Services

Categorizing companies makes regulation of the more sensitive services substantially easier. Publicizing a form of organization encourages companies to be clear about the services they offer, assisting the government’s desire to focus regulatory attention on services of greatest concern. There are a variety of ways proposed to categorize legitimate companies offering military services, one of which is on page 10 of the Green Paper. However what follows is a simpler categorization that might be more useful for purposes of regulation.

Companies providing military services internationally can be termed Military Service Providers (MSPs). All companies providing military services draw from the same pool of talent for their employees – predominately ex-service personnel. In fact, most companies currently providing military services internationally need little if any additional regulation beyond existing commercial laws since their services are nonviolent and beneficial to humanitarian and international operations. MSPs can be broken down into three general groups (table 1), Nonlethal Service Providers (NSPs), Private Security Companies (PSCs), and of course PMCs.

NSPs probably need no additional regulation at all. These companies provide useful logistics services, remove unexploded ordinance, or do other services in high risk environments that the international community finds more useful than threatening.

PSCs provide (usually) armed protection, most often for other companies rather than states. This protection can be similar to private security guards common in western nations, or more likely, a higher level of armed security capable of defending against attacks by guerilla forces. Some of these companies have contracts guarding embassies and humanitarian operations. Usually the technique is for the company to provide a few managers with Western military backgrounds who then train scores or even hundreds of locals to make up the vast bulk of the manpower. These companies do not undertake offensive military actions. While it is conceivable that some regulation might be useful, in fact informal voluntary agreements between the NGO community and PSCs¹ mean that such regulation is not critical and may in fact reduce the level of flexibility that makes these agreements possible. Finally it should be noted that a number of PSCs are quick to emphasize they are *not* PMCs. They fear the “mercenary moniker” that the more sensationalist academics and journalists utilize to demonize the companies. That kind of label could easily damage the reputation of a company doing legitimate contracts with NGOs, governments or the UN.

With these categories PMCs only represent one of the three broad types of companies, but the type of most concern for regulation. PMCs are companies that generally work for states and provide military services designed to significantly impact strategic situations. It should also be noted that the category can be broken down into two subcategories: *active* PMCs willing to carry weapons into combat, and *passive* PMCs that focus on training and organizational issues. It is the PMCs that stimulate the most interest for regulation.

Military Service Providers (MSPs)		
NSPs Nonlethal Service Providers	PSCs Private Security Companies	PMCs Private Military Companies
Mine Clearance Logistics & Supply Risk consulting	Industrial Site Protection Humanitarian Aid Protection Embassy Protection	Military Training Military Intelligence Offensive Combat
PA&E Brown & Root ICI of Oregon	ArmorGroup Wackenhut Gurkha Security Guards	Executive Outcomes (<i>Active</i>) Sandline International (<i>Active</i>) MPRI (<i>Passive</i>)

Table 1

¹ “A Pact Against Oil Company Abuses,” *New York Times*, 28 December 2000.

Regulating PMCs: Some Key Points

1. PMCs are amenable to a remarkably high level of regulation, but there needs to be financial incentive to do so. Regulation with no benefit to the companies would be seriously counterproductive – companies will evade it (such as in South Africa) or less scrupulous foreign competition will step in to undercut or outmaneuver UK companies burdened by the regulation, actually increasing the proliferation of less reputable firms.
2. Even without formal regulation PMCs have not lived up to dire (and astonishing!) predictions of disloyalty or brutality, they have not traded in human organs nor have they violently overthrown their contractors.² In fact the majority of fears articulated by critics exist only as academic theory. Most regulations having to do with human rights and accountability will be readily accepted by the PMCs who already assume standards instilled in typical Western militaries. The IPOA Code of Conduct articulating some key human rights protections was largely written by NGOs and widely endorsed by PMCs <<http://www.ipoaonline.org/code.htm>>.
3. The International Traffic in Arms Regulation (ITAR) in the United States are strict and comprehensive which obviously gives the government a great deal of control over PMC operations.³ PMCs willingly endure the process – many of them do a great number of contracts for the U.S. government and they have a strong incentive to comply. The downside is that companies passing through ITAR are assumed to have the tacit endorsement of the U.S. government for their activities. Thus, any service permitted by ITAR is henceforth considered to be de facto part of U.S. foreign policy - opening the government to criticism.
4. The best way for the government to ensure the transparency and professionalism of PMCs is to hire them directly, either to support UK foreign policies or to bolster UN peace operations. Contractual obligations can be much more specific and invasive than general guidelines and regulations. They could include military observers, increased transparency and detailed financial and legal penalties for noncompliance. The potential UK government market is a huge incentive for PMCs to accept regulations.
5. Given that PMCs are the best and only realistic hope for effective military support of peace operations in most developing countries, regulations should not impinge on the speed and flexibility of their use for such tasks. As proven by recent UN peacekeeping operations, PMCs are already more transparent and accountable

² One excellent study on this was done by Philip Trewitt, *The Business of Killing*, The Parliamentary Human Rights Group, London, July 1999.

³ The ITAR regulations are online at <<http://www.pmdtc.org/reference.htm>>.

than the average state military proffered to perform UN peacekeeping in these conflicts.

6. Over regulation should be resisted or the policies will be largely evaded or ignored as is happening with the South African Regulation of Foreign Military Assistance Act of 1998.⁴ The ungainly regulations have even limited the South African government's own ability to make constructive use of local companies providing military services.⁵
7. The fact that these legitimate private firms are for-profit companies should *not* overshadow the fact that these companies are already providing crucial military services in peace operations around the world, while showing greater responsiveness and costing far less than national military operations would. Even including the profit component PMCs cost a fraction of similar UN operations while being infinitely more effective.

PMC Peace Operations?

One of the most ironic aspects of the debate around the use of PMCs relates to humanitarian activities. Few have questioned the legitimacy of PSCs providing robust military-level protection for industrial mines in war zones. However, when it is suggested that these same companies be used to protect innocent civilians, the issue becomes extremely political and mired in theoretical debate over the "state's monopoly over violence."

The stark fact remains that conflicts in developing countries target innocent civilians even more than they target economic or military assets. Too often state militaries are incapable of defending the innocent; while in many cases the state militaries are little more than private armies for warlords, actively targeting civilians themselves.

Worse, the more capable First World militaries have shown little interest in joining multinational interventions into Third World conflicts – no matter how horrendous the humanitarian situation. The UN is not a "poor-man's NATO" - troops from developing countries are inadequately trained and equipped for these incredibly complex tasks. We end up with the world's least capable troops trying to do the world's most difficult military operations. As a result, hundreds of thousands of civilians die needlessly.

⁴ Policy makers on this issue should read the Occasional Paper by Mark Malan and Jakkie Cilliers of the Institute for Security Studies in Pretoria, "Mercenaries and Mischief: The Regulation of foreign Military Assistance Bill." The paper is online at <<http://www.iss.co.za/Pubs/PAPERS/25/Paper25.html>>. Written during the drafting of the South African legislation, it highlighted many of the flaws and predicted many of the current problems.

⁵ For example, the South African government wanted to hire a private firm to provide Portuguese-speaking bodyguards for the East Timorese leader 'Xanana' Gusmao, but were thwarted by their own legislation. See Paul Kirk and Ivor Powell, "Private SA for for East Timor conflict", *South Africa Mail & Guardian*, 29 October 1999.

PMCs offer the *only* military forces both willing and capable to provide rapid and effective military services in most Third World conflicts. PMC operations in the past have saved tens of thousands of lives, but their potential is even greater. Working as “force multipliers” PMCs can provide the competent military backbone to ensure the success of UN or regional multinational peacekeeping or peace enforcement operations. This is critical if we want painstakingly negotiated peace agreements to survive and to ensure that such missions are not hijacked or held hostage by ruthless warlords as in the past. PMCs can *proactively* make peace, end the killing and maintain order while allowing international bodies to negotiate permanent settlements.

More critically, given an international mandate, PMCs can decisively intervene in instances of genocide, as occurred in Rwanda. Executive Outcomes’ offer to the UN of a rapid intervention force during the Rwanda genocide was declined - at a time when member states were callously turning their backs to UN pleas for military support. In hindsight, can anyone rationally argue that ignoring EO’s offer was the correct decision? This *unique* capability and willingness to intervene in instances of genocide cannot be overemphasized.

Although there have been active efforts to reform and improve the UN’s military competence (most notably the “Brahimi Report”), structural issues preclude the international organization from any sort of competent rapid deployment ability. Problems of political will and declining military capacity ensure that First World militaries will continue to shun even the most critical of humanitarian interventions. There are no alternatives to PMCs for this capability. Nor is there any likelihood of an alternative within the next decade.

With the lives of hundreds of thousands of people at risk any proposed regulations on PMCs should recognize the current dire realities of international peacekeeping, understand the danger of being overly restrictive, and facilitate the use of private companies for peace operations.