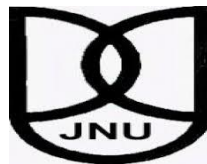


**PRIVATISATION OF SECURITY AND CONTEMPORARY
INTERNATIONAL RELATIONS: A STUDY OF MOTIVATIONS,
LEGALITY AND IMPLICATIONS**

*Dissertation submitted to the Jawaharlal Nehru University
in partial fulfilment of the requirements
for the award of the degree of*

MASTER OF PHILOSOPHY

ANURADHA OINAM



Centre for International Politics, Organization and Disarmament

School of International Studies

JAWAHARLAL NEHRU UNIVERSITY

New Delhi- 110067

INDIA

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Date: 26/7/2016

DECLARATION

I declare that the dissertation entitled “Privatisation of Security and Contemporary International Relations: A Study of Motivations, Legality and Implications” submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

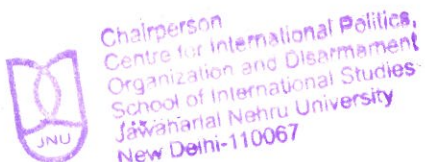
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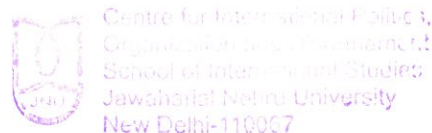
C.S.R. Murthy

PROF. C.S.R. MURTHY
Chairperson, CIPOD



Dr. Happy Mon Jacob

DR. HAPPYMON JACOB
Supervisor



DEDICATED TO MY LOVELY UNCLE

OINAM IBOYAIMA SINGH

&

TO MY PARENTS

OINAM KUMAR SINGH

&

OINAM ONGBI SANAHANBI DEVI

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LIST OF ABBREVIATIONS

CESS	Confederation of European Security Services
DCAF	Democratic Control of the Armed Forces
E.O	Executive Outcomes
ICL	International Customary Law
IL	International Law
IHL	International Humanitarian Law
INSS	Institute for National Strategies Studies
KBR	Kellogg, Brown and Root
MPRI	Military Professional Resources Inc
NATO	North Atlantic Treaty Organisation
NGOs	Non Governmental Organisations
OAU	Organisation of African Unity
PMC	Private Military Company
PMF	Private Military Firms
PMSC	Private Military and Security Companies
POW	Prisoner of War
PSC	Private Security Company
UK	United Kingdoms
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
USSR	Union of Soviet Socialist Republic
SMI	Security Management Initiative

Chapter 1

Introduction

Privatisation of security has been one of the much debated security issues in Contemporary International Relations. The term security can be understood in myriad ways. This study attempts to explain security through the lens of the traditional notion of mercenaries and recently emerging private military and security companies (PMSC) and its role in International Relations. The international community perceives them to be equal although they are different. Yet, some scholars consider the emergence of PMSCs as the reincarnation of mercenaries. It is a conventional notion that only states are the primary role player, having the legitimate authority to use violence within a territory. However, with the emergence of private military forces, the use of violence has been transferred into their hands, which further challenges the Tillian and Weberian notions of monopolistic use of force by states. PMSCs perform several functions such as logistics, management of weaponry, and protection of the military personnel and so on.

PMSCs are not going to vanish overnight. The problems and issues of PMSCs become a topic to be discussed among various scholars, philosophers, war strategists, and foreign policy makers. At the same time individuals, states, NGOs, and international institutions are gradually depending more on private military services. Hence, introspection regarding the role of PMSCs and their contribution to the security studies in Contemporary International Relations.

The private military forces have contributed significantly to modern warfare in the name of providing security and to stabilise weak or failed states. Therefore, the private security forces have become the backbone of modern warfare. However, the international community faces many problems regarding the ambiguous nature of mercenaries and PMSCs. There is no absolute definition defining both of the terms. They neither belong to combatants nor civilians. This further causes complexity in offering the status of 'Prisoners of War' (POW) in any conflict by International Humanitarian Law (IHL). Another problem is regarding the legitimacy of the

monopolistic use of force by the private forces. According to Weber (1918), the state has the monopoly to use force within its territory, but in the contemporary era, his notion of force has been transferred to the hands of Private Military Companies (PMCs). This has caused human rights violations to take place. Since PMCs do not have any military code of conduct, they violate the laws of war during conflict. There is problem of accountability, lack of transparency and the dilution of the sovereignty of states. Furthermore, the legal status of PMCs presents another problem. Because they are not under the mandate of international legal authority, private contractors are not brought to court on charges. Examples include the employees of Blackwater in Iraq or those employees of Executive Outcomes (E.O) in Africa where they enjoy impunity. Sometimes the private company might operate under the Customary International Law of any nation, but it becomes problematic as they are not confined to a single state, they keep moving from state to state for their financial gain.

Historical overview of PMSCs

The use of private forces in war is not a recent trend. Known as mercenaries, they have been around since the time of Ancient Greek Period. By borrowing ideas from Plato's *Laws* and Aristotle's *Nicomachean Ethics*, Holmila (2012: 48) describes mercenaries as insolent, unjust, violent men and unreliable warriors. Mercenaries played a great role even in the Dark and Middle Ages. The first private military companies called 'Free Companies' had emerged in the Middle Ages which was independent of state authority. One of the oldest documents, the Magna Carta signed in 1215, also contains some clauses, discusses the Flemish Mercenaries used by King John (Kiernan 1957: 69). In the thirteenth and fourteenth centuries, Italian private armies called 'condottiere' were very famous; their history reflects the Renaissance Italy (Mockler 1969: 26). The essence of the modern money oriented mercenaries could be said to be derived from the employer- mercenary company relationship found during Renaissance Italy.

In the Catholic just war traditions, mercenaries were notorious for their greedy, immoral and profit based motives (Victoria 1985: 530). However, the Ancient Greek

society in earlier times considered mercenaries as those who were very respectable and well-trained professionals. Rzepka (2005) highlights the importance of mercenaries in Athens more than its art and culture. The Egyptian Empire in order to fight wars hired the warriors from its neighbouring territory. Pharaohs Sesostris III (1842-1191BC) and Ramses II (1279-1213BC) hired Nubians, Palestinians and Syrian mercenaries to expand their empire (Varin 2012: 16).

From Mercenary to Private Contractors

In early and medieval warfare, the private forces had contributed a greater role to win the battles that fought among the kings and lords. For example, the story of private forces deployed by European countries, the hired Hessian soldiers who took part in the American War of Independence, the story of privateers in American Civil War (1861-1865), and the Spanish-American War (1898) (Chakrabarti 2009: 3) show the contribution of mercenaries in waging wars. These private forces could be hired at a cheaper price and supported the huge standing army of states as well. The significance of private forces became very prominent since the Post- Cold War period (Singer 2005), yet their involvement was there even during the Cold War. Michael McBride (2003: 3) in the *Business Week* describes the war against Vietnam by the US as ‘contractor war’, and this trend of hiring private forces in the war has been continuing till today. Authors such as Chakrabarti (2009) and Thomas Adams (2003) consider PMSCs as non-state firms which can provide security by enforcing violence in the hands of private military forces, but they differentiate the private military forces from mercenaries.

For Sarah Percy (2012: 942), the emergence of private military companies could be explained in three phases. First was in the 1990s where companies such as E.O and Sandline played a significant job in fighting against the violent rebel groups in certain African countries. The second phase started in 2001, after September 11 attacks which led to war in Afghanistan and Iraq, the number of Private Security Companies (PSCs) has been massively increased. The American government reduced their military strength but supplement from the private sector. Since then, the companies have been supplying

military services for defence. The last phase is the period of the post-Iraq and Afghanistan war.

Fred Schreier and Marina Caparina (2005: 15) term the mercenary as ‘a professional soldier hired to serve in a foreign army’. However, Nathan (1997) characterizes mercenaries as 1) hired forces who may be directly or indirectly involve in the conflict, 2) fighting wars for other countries, 3) trained forces that perform logistics, intelligence or other advisory tasks, 4) fulfilling the agenda of the country who hired them and bringing more effectiveness to the armed conflict. The description of mercenaries as given by the Geneva Convention of August 12, 1949, relating to the Treatment of Prisoners of War, is as follows: they are 1) recruited domestically or by any foreign nation, 2) directly involved in the conflict, 3) financially motivated to go for war, 4) completely new in the conflict, and represent no one, 5) not belonging to any side of the war, and 6) not a part or member representing any specific forces of a state.

According to Paulina Ledwon (2013: 108), mercenaries are considered as criminals. They can be sentenced and even executed after trial according to Article 5 of The Fourth Geneva Convention. There are clauses which talk about mercenaries in international conventions (Pattison: 2008). However, the controversial issue is when it comes to the definition of PMSCs, as many scholars disagree to accept the PMSCs a synonym to mercenary.

Peter Singer (2001/02) highlights that the traditional notion of warfare based on state forces has been transformed due to the emergence of PSCs and the increased demand for private military forces in modern warfare. Avant (2005: 40-41) in her book ‘*The Market for Force*’ gives the importance of PMSCs as a transnational market force that provides the military services for states which need security forces for warfare. She further discusses two different opinions; optimists who support the market forces and pessimists who oppose the very notion. Pessimists like Ken Silverstein (2000) and Musah and Fayemi (2000) opine that with the emergence of private security forces and their involvement in war, violence becomes a private commodity and a nation’s defense policy will then be shaped only by profit motifs. They cite the worst consequences of

PMSCs in Africa. However, optimists such as Eliot Cohen (2000) and David Shearer (2001), argue that private security forces will bring solutions to security problems within and outside the territory. The significant changes that brought in the foreign policy of the US government and the ending of the civil conflicts in Africa are some positive aspects of PMSCs.

Avant (2005) highlights three kinds of controls that have to do with private security forces. First is political control which has to do with civilian or political resolutions, second is the functional control that deals with the efficiency and the ability of soldiers, and the third one is social control, i.e. the integration of the use of force with prevailing international values and social norms. The author concludes by saying that there is a plethora of definitions of PMSCs, which differs based on the kind of state. For example, in strong states, PMSCs are able to supervise and overcome danger quite well in contrast to weak states. Thomas Mandrup (2012: 3) clarifies not all states exercise a full monopoly of force. States such as Afghanistan, Iraq or Sudan require non-state actors to run the state efficiently such as the PMCs, the UN, local militias or even elements within its armed forces. But the problem which the author did not mention is how the contract forces are not able to provide security and stabilise the volatile situations of weak or failed states.

The debate over PMSCs can be divided into three different groups: activists, analysts, and proponents. Activists consider themselves as having a human rights-based agenda and they are trying to link how the involvement of PSCs violates human rights in conflict. The second group sees the emergence of PSCs as an important hint in International Relations in connection to globalisation, privatisation and intervention. The third one focuses on the function of non-state actors on the security arena at the international level (Schreier and Caparina 2005: 10-11). Abrahamsen and Williams (2009: 5); argue that the privatisation of security is ubiquitous in the modern world and domestic transformation has brought a hint about the emergence of transnational security structures. Private security actors help to build the platform for security at the national and international levels.

Legal issues concerning PMSCs

One of the most important aspects of PMSCs is regarding their ambiguous legal status as it becomes an open-ended issue in the current International Relations. The most important issue is its role and active participation in grey zones or war prone regions. The regulation of PMCs is less accountable as they operate outside the realm of international legal framework. Despite this, there are some international conventions which talk and analyse the regulation of mercenaries such as The Hague Conventions (1907), the Geneva Conventions (1949), the UN Charter and related Resolutions; Article 47 of Protocol 1, additional to the Geneva Convention of 1949 (1977), Declarations and Convention of the Organisation of African Unity (OAU), and the UN International Convention against the Recruitment, Use, Financing, and Training of Mercenaries adopted in 1989 (Chakrabarti 2009: 14). Goddard (2001) opines that the lack of the legitimate authority to command the PSCs hinder their regulation to operate effectively.

In modern warfare, the role of private forces is very significant. Most of the conflict in the Third World Countries shows the active participation of private military forces, but their legal status remains a hot and debatable issue in the academic circles. No international institutions or organisations are ready to legalise the regulation of PMSCs for their involvement in grey areas or failed states. Legitimacy per se is very important for the nuts and bolts of PMSCs in international affairs. For Linsey Cameron (2006: 573-74), the first and foremost thing is the status of these employees. She says that it is not an easy task to give the legal status to the employees of PMCs. The problems of PMSCs would be solved once the issue of the legal status is resolved and it will be easier to effectively regulate the PMSCs, with full-fledge transparency. Furthermore, the problems of accountability and human rights violations would be reduced. The employees of PMCs and the contractors are two different entities and Cameroon concludes that all PMCs employees are not necessarily mercenaries. She argues that mercenaries can be punished under International Law (IL) and detained under Additional Protocol I and that mercenary conventions also can apply in non-international armed conflicts. But aside from this, there is no proper legal framework regarding the operation of PMSCs in any conflict.

Scholars like P.R. Khalidass (2014: 13) claim the urgent need to offer the legal status to those private military companies so that they can legally wage war. As International Law does not own any mechanism to punish the private forces for crimes committed during conflict, so for Khalidass, the state who hires those forces should be responsible for their actions.

Schreier and Caparini (2005: 14) talk about the ambiguous nature of PMSCs. Their argument is based upon the state's own interest and the recognition and approval by the international community to offer the legal status of PMSCs. International Humanitarian Law categorises two groups in any conflict, combatant and non-combatant. Private military forces do not belong to either of these two categories.

Don Mayer (2010: 387-388) discusses the issue of PMSCs from a different dimension. Though private military companies serve their duty outside the realm of the legal framework, there are some possible ways to make them accountable which is important to stabilise war torn areas. Heather Elms and Robert Phillips (2009) pay attention to the behaviour of private companies and their stakeholders. For them, the moral legitimacy of the private companies is very important. Nevertheless, they do not see the larger picture which is necessary for private security companies to survive in the international arena.

For Lene Bomann-Lanser (2004), issues such as accountability problems and inability to prosecute the private forces could be solved if the armed contractors are given the legal recognition under the international legal framework like a regular soldier. The problem is the lack of a permanent legal framework of the private military contractors.

Ethical aspects of PMSCs

Private military forces violate the laws of war in every conflict. However, philosophers like Jeff McMahan (2011) and David Rodin (2002) consider that soldiers unlike the private forces have patriotic feelings, a sense of loyalty towards one's

compatriots, community and family. This posed the ethical and moral questions towards the behaviour of the PMCs by the international community.

This section elucidates the ethical aspects of PMSCs. Marble Barranca (2009) opines that the problems of ethical issues should be solved before enforcing any legal institution of PSCs. She uses three factors to understand the ethical implication of PMSCs. These are the state monopoly over violence, the shift from person to contractual relationship and the undermining of ethical identity due to instrumentalization of PSCs.

The transfer of power from the hands of states to the private military forces could be linked to the ethical and moral justification of the private forces (Avant: 2005). Because private military forces are seen as ‘paid killers’, ‘trigger-pullers’, ‘guns for hire’, and there is less concern for them on moral ground when they happen to die, and executed, or imprisoned, there is less concern for them on moral ground (Nossal: 2007; 18). Hence before considering the legality issue, some authors assert that the ethical concern should come first in the regulations of the PMSCs.

Dimitrios Machairas (2014: 49) illustrates that legal instruments cannot wholly overcome the problems of PSCs, but that the ethics of warfare is important to understand. His moral argument is based on the harm caused by the private forces, not on how PSCs are motivated through financial gain as there may be other morally accepted factors which influence them to go to war. However, Tony Lynch and Walsh (2000) urge that there are some cases where the monetary motive is the prime factor for private military forces. Machairas (2014: 50) argues that the financial gain is not the only factor that drives them for their actions based on their harmful and unjust actions. Another moral concern he raises is regarding the use of violence by the state, and how the emergence of PSCs undermines the essence of democracy and its defence mechanisms.

However, Pattison (2008) points out that the active involvement of private military forces in the war is usually considered as a moral problem as they are encouraged by the profit motive and lack a sense of patriotism or moral obligations. But

his argument emphasises that the intentions of private forces play more effective than their financial motive in waging war.

Fate of the PMSCs

As PMSCs are concerned, their importance in the recent decades has increased tremendously in war fighting or conflict. Therefore, the issue of PMSCs in the future is either to prohibit or to legally regulate it (Holmqvist 2005). He introduces five elements to enforce legal prohibition or regulation. First is to establish the clear objective of PMSCs to protect the public in favour of any state, a segment of industry or a firm. The second element is to identify who and what types of firms need to be prohibited or regulated. The third one discusses how to establish the specific activities of the firms under stringent legal scrutiny such as to follow the international laws of war and human rights regimes. Fourthly, it is about the operation of the PMSCs, i.e. which body will conduct, observe and regulate the PMCs. Most of the time, the PMCs operate autonomously and prefer self-regulation, which is not always efficient. The last one is about the enforcement of PMSCs by contractors and what benefits they receive from it. For Singer, it is necessary to expand the definition of a mercenary by including the PMCs in it, as well as legislation of the legal frameworks for PMSCs at the national level.

Most of the developing countries use non-state actors to suppress the re-emergence of interstate conflict in the post-Cold War which had been earlier subdued. But for Machairas (2014), the increasing use of private security defies the ethical standard of the warfare which creates tragedy and chaos to human life. This problem cannot be handled simply by only having an international legal framework but rather by shifting and maintaining the ethics of warfare.

The very concept of the warfare has been transformed in today's world. The participants in New Wars (Kaldor 2012) consist of both private military forces along with the regular soldiers. Singer (2005) sketches how PMCs are different from

mercenaries, saying that PMCs can be bought or sold at the international market and not oblige any moral or ethical code of conduct under any specific legal norms.

Chakrabarti (2009) argues that private security industries perform the core functions of the sovereign state which dilutes the notion of sovereignty. The use of violence by PMCs is the real debate in the academic circles, yet this new regime becomes a catalyst to maintain the internal security as well as to fulfil foreign policy goals. He examines how the private security companies not only operate in weak or failed states but also in powerful states like US and UK. Some analysts argue that weak governments and poor countries still need the services provided by the PCSs.

Schreier and Caparini (2005: 2-3) argue that modern warfare is becoming privatized and sponsored by business oriented firms which further resonate in the gradual development of PMSCs. Many weak governments, especially in African countries seek help from PSCs to conduct counterinsurgency operations against rebel forces. Leaders prefer hiring PSCs to maintain civilian control of its armed forces. However, the use of PSCs can bring harm to services deliver during a war or conflict. Both of the authors suggest that the western countries show a lack of interest in deploying their troops to intervene in conflict zones as peacekeepers and peace enforcers.

However, Shearer (1998: 69) opines that military companies sometimes need to be seen as a part of the solution, not wholly as a problem for governments that lack resources. He asserts that the whole issue should be seen through the lens of a half full glass, otherwise the very definition of PMCs will give a negative meaning. For Avant (2005), the emergence of PSCs will not make the state less important but enable the state to change its role with the help of other actors, such as non-state actors ones. For her, the market of forces will enhance the relations of executives with legislatures, reduce transparency problems, and minimise the number of public troops send abroad. She embraces the emerging trend of PSCs as a part of globalisation and technological development, saying that the states should not ignore them. She assures that this market force may generate a new reinforcing process of control in the near future.

Herbert Wulf (2005: 104) comes up with three important suggestions regarding private forces to enhance their regulation in the future and to install peace and security. These include developing stringent norms to regulate and control the legal vacuum in grey zones, overcoming the democratic deficit, and the security deficit and reorganising the use of force by the states. Wulf actually proposes a multi-level monopoly of force which focuses on how security should be reached to the people based on their security needs.

Definition and Rationale of the Study

Different scholars define and perceive the definition of privatisation of security by using different terminologies. However, the study will analyse the transformation of the modern warfare through the lens of PMSCs as well as their role and implications in the Contemporary International Relations. PMSCs are defined as ‘non-state entity which can use coercive forces to achieve the goals and agendas of the contractors in the war. They are profit oriented, having corporate structures behind the façade of military tag’ (Chakrabarti 2009: 6-7).

The study is relevant as the role of PMSCs has been amplified; many states still prefer to hire the private forces in waging war despite their flaws, ambiguous nature, problems of transparency, and accountability. This brings the interest the researchers to contribute something for an academic purpose and to find some new insights which have been debated among the scholars, academicians, war strategies and so on. Although there have been efforts to address the issue of PMSCs and the extension of the legal framework of mercenaries to PMSCs, the thin line between the private forces and the contractor still exist. Neither international organisations nor countries have come forward to legitimise the status of PMSCs. However, the study seeks to explore why countries have private forces and the factors that motivate the state to hire private forces and their implications. Hence, a holistic study and genuine understanding is much required in the academic field as well as for future research.

The scope of the study is limited to the roles, and factors that explain the emergence of PMSCs, as well as their legal aspects. Further it will analyse how the privatisation of security in Contemporary International Relations has transformed the nature of warfare. This has resulted in the violation of human rights and laws of war during a conflict, blurring the line between combatants and civilians, and violating the military code of conduct of the regular forces.

The followings are the questions posed for the proposed study

1. What is the role of the Private Military and Security Companies (PMSCs) in contemporary warfare?
2. What are the factors that explain the emergence of PMSCs?
3. What kind of legal framework if any, that the PMSCs operate in?
4. Why do PMSCs fail to ensure peace in the long run?
5. Why do countries prefer to hire private forces to go for war despite its problematic and ambiguous nature?

Hypotheses

1. The involvement of PMSCs in contemporary warfare has transformed its very nature resulting in further simmering of war instead of ending or winning the war.
2. Lack of legal framework regarding PMSCs results in a lack of accountability during conflict which leads to grave human rights violations.
3. Economic interests motivate states to prefer 'hired forces' to wage war by ignoring its humanitarian and legal implications.

Research Methods

The study intends to analyse how the emerging role of privatisation of security has an impact in the nature of modern warfare despite its ambiguous, lack of legal status, and notorious activities of the private forces regarding their involvement in Contemporary International Relations. For this, the study uses the historical and

descriptive methods as it seeks to examine the evolutionary phases of private security forces and to explore in more detail how the definition itself has shifted from the mercenaries to the current definition of PMSCs.

Mixed method, which uses both qualitative and quantitative methods, will be used to enhance the research and to test the hypotheses. The study is not going to generalise from specific events, yet will critically evaluate the factors and motivations that contributed the emergence of PMSCs in the Contemporary International Relations.

In order to conduct holistic research of the study, both primary and secondary sources will be used extensively in the research including books, articles published in edited volumes, research papers, newspapers articles, internet sources, and reports and so on.

Chapter Outline

The proposed study is divided into five chapters. The first chapter is the introduction which will outline a brief summary of how PMSCs have been transformed from traditional hired forces, also known as mercenaries. It discusses the main purpose of the study and the urgency of its contribution to the academic circle. The second chapter will revisit the old concept of mercenaries, its similarities and differences with contemporary private forces, and further explore the use of mercenaries in today's time. The third chapter will analyse the motivations that make states seek private forces despite the flaws and problems of PMSCs, surpassing economic motivations to other important factors that influence states to prefer private forces in waging wars. The fourth chapter will explore the legal aspects of PMSCs, the problems created by them and the consequences produced by the use of PMSCs in the Contemporary International Relations. This chapter will highlight the importance of legal mechanisms that regulates PMSCs in waging war. The final chapter is the conclusion of the study which will provide the major findings and will test the hypotheses.

Chapter 2

The Use of Mercenaries in Contemporary International Politics

Introduction

This chapter will cover the historical background of private military forces and their role in the Pre-Westphalian era and it will further analyse why states relied upon private forces. The concept of private forces and mercenaries in ancient times was more or less similar unlike how they have been perceived in Contemporary International Relations. At the same time, both mercenaries and private military forces do wage war for financial gain (Trundle 2004: 40). The objective of this chapter is to map how the use of hired forces in ancient times led to the emergence of private military forces after the birth of sovereign states. It will explore the states' security issues, the establishment of national armies to defend the sovereign states. This chapter will highlight the transitional phases by exploring the contemporary model of private forces and their relevance in the current system.

Historical Background

In earlier times, the popularity of the mercenaries began in Ancient Greek society, in which there was not much distinction between the mercenaries and the Greek soldiers. Mercenaries played a crucial role in the Catholic just war tradition as well (Victoria 1985: 530). Thinkers such as Machiavelli criticise mercenaries for their activities and profit oriented nature. He is sceptical of hired troops and believed that hired forces sold their souls for money. Unlike regular soldiers, they were very violent and ferocious. In contrast, the Ancient Greek considered mercenaries as very respectable and well-trained professional soldiers, and were considered more famous than the art and culture (Rzepka 2005) The Egyptian Empire in order to fight wars also hired warriors such as Nubian, Palestinian and Syrian mercenaries and so on (Varin 2012: 16).

Henry II (1154-1189) of England transformed feudal armies into paid and professional forces to launch an effective war in the battlefields; he was quite satisfied

with the decision of replacing the native soldiers with the hired armies. The mercenaries during those days had performed a myriad of activities of the states. In 1173 and 1174 revolt, Henry and his enemies such as Louis VII, Henry the Younger (1183), Geoffrey (1186) used mercenaries along with citizen armies to fight against each other. Henry realised at that point of time, the need for deploying more number of mercenaries in his army battalion. So he organized mercenaries in such a way that they were placed separately in different groups (France 2008).

Carlos Ortiz (2010: 4) examines the role and importance of military enterprises in the Thirty Years of War which began in Germany and thereafter spread across Europe. The functioning of military services of the states was possible because of the abundant availability of the military enterprisers and because soldiers were ready to exchange their services for money. Militias, though different from regular soldiers, were also a part of the army which was trained by state authorities and institutions in order to help the citizen armies. The urban militias also served the Roman Empire in the fourth and fifth centuries to fight their enemies. After the conscription law was passed, however many Roman citizens escaped from the military conscription because they did not want to be part of it. So Roman Empire had to hire forces from other states to serve. Mercenaries in the Roman Empire also known as Huns and the Roman General Aetius, sought help from the Huns for the security of the states. Saxons, another kind of mercenary served from the seventh to ninth centuries, as a front line of Charles the Bald's army.

Another mercenary unit, Varangian Guard of the Byzantine army in the Middle Ages, was composed of Scandinavian Vikings and Scandinavian Harald Hardrada was the hired captain of the Byzantine Emperor Basil II. The Catalan Company also consisted of mercenaries which were organised in 1302 by Roger de Flor, a Knight Templar from Brindisi. This company was famous for their capability of defeating the Duke of Athens and his Frankish knights at the Battle of Kephissos. Even in the fourteenth-fifteenth century Italian condottieri were hired for war (Mockler 1969).

Kelly Devries (2008: 43) points out that most of the soldiers who took part in the Hundred Years of War were paid soldiers. Unlike the leaders, most of the medieval soldiers or troops considered military service as their occupation and not an obligation which was imposed upon them. According to Hannah Tonkin (2011: 8), in between twelfth and seventeenth centuries the existence of mercenaries in Europe was prominent and their basic goals were to earn as much profit they could. Mercenaries in the collective form, for example in Free Companies had emerged in Europe which provided military services in due course and they participated in the Hundred Years of War from 1337-1453. Unlike the mercenaries of today, the hired fighters were used by rulers to maintain and balance the foreign policy as well as to achieve their political, economic, territorial goals in other countries. Because of their active role in other countries, mercenaries sometimes led to foreign conflict between states. Also another problem was the role of piracy in the ancient International Relations as the ruler deployed private navies to the sea. Hence the question of responsibility arose. Neither the state nor the ruler was ready to take the responsibility for crimes committed by the mercenaries and the negative consequences caused by the private forces.

Tonkin (2011: 10-11) observes that the shift from using mercenaries to the use of standing armies was at the peak in between fifteenth and seventeenth centuries. States started exchanging their armies with other states rather than buying mercenaries available in the market so that they could lessen the problems of transparency and other issues. However, after the Napoleonic Wars, a new trend emerged in Europe where states preferred to use citizen armies in warfare. The author elaborates two reasons for this new evolution. Firstly, the technological transformation of the military institutions and the territorial expansion caused states to opt for citizen armies. The second explanation is that states had realised the importance of the state-citizen relationship and to nurture and improve it, the states chose citizen. Citizen armies were more efficient than mercenaries, as it enabled the states' army to define its own national identity and prevent the use of violence as they were fighting for their own states. The use of foreign armies by the state was no more a respectable job. Also it was agreed that states should neither lend nor exchange armies among themselves. So, mercenaries were outlawed by

the world community and even International Law agreed to ban the hiring of foreign troops. Thus in the nineteenth century, states stopped the hiring private foreign forces for war and preference was given to use standing armies.

The legacy of mercenaries is prevalent even today. However, the focus has shifted and the question of legitimate use of force by the private forces has arisen. The reason being the transfer of power in the hands of private forces has eroded the sovereignty of the states. The irony, however, is that irregular forces help to build modern states (Davis and Anthony 2003).

Richard Gabriel (2005) explores the transition from traditional to modern warfare. He studied the period between fifteenth to seventeenth centuries, which were crucial to build and strengthen their own nation-states whereby states became the key role players in International Relations. With the gradual decline of feudalism, monarchy replaced the role in the formation of the nation states and in this way played the key role of political organisation. Yet, the hunger for power was at its zenith and the monarchy started eliminating other political organisations to consolidate its power and thus the era of absolutism started in the beginning of the seventeenth century. For Gabriel (2005), waging wars among various monarchs were because of their personal willingness irrespective of their happiness or their apprehension about other monarchs. During the later part of the century, the momentum changed as the reason for fighting war was due to economic factors. During war time, monarchs sought help from the newly emergent powerful merchants and others who could afford and supply their needs of fighting and maintaining armies. Nevertheless, it did not last long as in the beginning of the eighteenth century national monarchs functioned without their help. Again the author highlights how economic factors could have influenced the nation states in achieving its military goals. When it comes to the question of loyalty, private forces were actually faithful and fought for the kings in Pre-Westphalian and Westphalian era. Napoleon was the first ruler who introduced and spread the concept of nationalism, after which the conscription of citizens to fight in war became the trend of the system. For Gabriel, this is transitional phase in the military history of warfare in the international affairs.

James Taulbee (2007: 151) believes that there was a decline of using mercenary forces in the early nineteenth century. He used the new liberal ideas that prevailed in the nineteenth century which enlightened the states to build their own armies. Citizens volunteered for conscription and it became the norm of the states to conscript their own citizens for the army. He takes the example of French soldiers who were imposed to work for political goals of France, unlike the hired forces that did not bother to achieve the political goals of the states. Another author called J. Eric Fredland (2011: 207) attributes the features of the mercenaries in the same century. For him, the states in the nineteenth century in Europe agreed to enforce a neutrality law which contained that states were not to send their troops to another state. However, the irony is that the presence of mercenaries and their involvement in the war still prevailed in the twentieth century especially in various African countries. Another important example is the presence of Nepalese (Ghurkhas) in the UK military.

Machiavelli used the term auxiliary troops or proxy forces instead of mercenaries. According to Carmola (2010) instead of mercenaries, modern PMSCs are more like auxiliary troops and they are less dangerous than mercenaries. Machiavelli, a critic of the mercenaries, distinguished the insignificance of the mercenaries from auxiliary troops. He asserted that states could not wholly depend on mercenaries and private forces. According to him, a state should not trust private forces as they are ambitious, undisciplined, and unworthy. He distinguishes the armies of the Prince from that of the mercenaries and auxiliary troops, he preferred the auxiliary troops. In the history of Italy, mercenaries were considered alien because they comprised of German, Hungarian, Spanish, Greek, Albanian, French, Swiss, English, and Scottish. However in the late fourteenth century, most of the foreign troops were Italian. Also, it has been found that in the late medieval and beginning of Renaissance, the popularity of the militia soldiers due to their patriotic feelings towards the state had been replaced by mercenaries. The trend reversed in the late eighteenth century and the beginning of the nineteenth century.

A brief history of mercenaries in ancient times has been discussed in the above subsection starting from the Ancient Greek till the nineteenth century. It highlighted how

the mercenaries were perceived by different societies in earlier periods. Some accepted the hired forces just like their own armies and some rejected them because of their profit motives. This section has also covered the ups and down of mercenaries in due course, but the trend of using mercenaries was different in Pre-Westphalian era from that of Westphalian period. The following subtopic will discuss mercenaries in the Pre-Westphalian era and how they were employed in waging wars.

Hired forces in the Pre-Westphalian Era

The study of paid or hired forces can be traced back in the early period when the concept of sovereign states did not exist. Their roles were little known and mostly neglected in the military history of International Relations, but John France (2008) in his edited book illustrates that a number of Greeks fought representing the Persian army against Alexander the Great (336-23 BC). The author highlights stories of the usage of Amorite nomads by Assyrian and Babylon kings as well as Nubians and Philistines by Pharaohs in the second millennium to wage wars. Other examples are Ur's army (2094-2047 BC) representing King Shulgi, Ten Thousand (401-399 BC) who consisted of Greek mercenaries representing Xenophon's army, Carthage's mercenary armies which also took a strong part in the Punic Wars against Rome (401-399 BC) and Alexander's army which comprised five thousand Persian mercenaries and Greek mercenaries when he invaded Asia in 334 BC (France 2008: 378).

From 1000 AD onwards, mercenaries have become part and parcel of state armies. They took part not only in the battlefield but also in defending the prevailing societies and churches. France, by highlighting Napran's work, illuminates that mercenaries were more important than paid men for the Chancellor of the Count of the Hainaut, Gilbert Mons. He further states the importance of mercenaries in Europe and the Middle East. According to Devries (2008: 46), the medieval mercenaries were different from previous ones as the former were characterised as paid or foreign troops, even though it was hard to define the nomenclature of mercenaries as foreigners in the Middle Ages. In the fourth and fifth centuries, the Roman Empire picked militias from cities to defend their opponents and hired the Huns to fight under Aetius (Devries 2008:

49). Like the modern mercenaries, the medieval mercenaries' main motive of fighting was to receive profit and financial gain. Examples of this include the Saxon mercenary in the seventh to ninth centuries, as well as soldiers who were paid well by the Byzantine emperor.

For Devries, the story of the mercenaries began with the history of the Renaissance Italian mercenary. Italy earned its income from the usage of condottieri, and they increased the prosperity of the state and boosted its economic capability. Taking an example from history, Guilio Cesare (Devries 2008: 95) and his brother converted the helpless and poor peasants into mercenary troops. This is how mercenaries and paid forces were built in the West as well as in the Latin East in the twelfth and thirteenth centuries. The Turkish and Arab mercenaries were also attributed to wars. However, the context of Hungarian mercenaries was different from other mercenaries in ancient times (Devries 2008: 95-103).

Mercenaries became professionalised in their homeland, and served the purpose of attaining financial gains and other incentives. They were in great demand for their skill and military tactics. Even Rome under Julius Caesar depended on mercenaries and the Conqueror's army under the leadership of William in the eleventh century sought hired forces as it was difficult for him to build and support a standing army of his own. In Egypt, Syria and even the Byzantine Empire from tenth to fifteenth centuries, mercenaries became the part of the state armies in waging war. Another new interesting phase had begun in the military history when the rulers or the head of the states could buy forces from the market. The prices of the forces could be bargained and later on personal gain became the main motive of the forces (Devries 2008).

Matthew Underwood (2012) opines that in the beginning of the fifteenth century, there were two aspects of activities performed by the mercenaries. One is about its positive prospect during a conflict and another aspect is related to the problems posed by them to the states during peace time. Because of this ambiguous nature of mercenaries, it was unclear where to draw the boundary in their activities and therefore led the states to enforce strict rules against the mercenaries. Thus, a significant shift took place after the

Thirty Years of war whereby the culture of using hired mercenaries was replaced by the state soldiers. Yet, the importance of both the citizen soldiers and paid soldiers was still there and both played an important role in the American War of Independence as well. In between sixteenth and twentieth century's, the states introduced the trend of conscripting their own citizens to build standing armies. States already decided to spend money to build their own strong armies having a true sense of patriotism. Gabriel (2005) problematises the fashion of working hired forces like the state forces. His suggestion is that both be paid equal salaries and also that private forces should have their own military code of conduct, ranking and administration just like regular soldiers.

Sarah Percy (2007: 70) addresses the ambiguous nature of mercenaries with respect to regular soldiers. In feudal society, the differences between regular soldiers and private armies were very minute and they were more or less similar in terms of their activities. It was even assumed that regular soldiers just like mercenaries produced lots of tension and chaos in society. Hence the states decided to hire mercenaries rather than the regular soldiers as the former were more skilled and well-trained for war. For Percy, mercenaries were sometimes considered as strangers as they lacked complete enthusiasm and loyalty towards the state like regular soldiers. In the thirteenth and fourteenth century as well, a state always possessed two kinds of armies, native forces and hired forces or mercenaries.

The above subsection talks about the nature of mercenaries and how they served in different parts of the world in earlier times. It further elaborates the importance of mercenaries and their contribution in building strong armies of the kings and lords. Mercenarism became a profession in those days because of mercenaries 'personality and skill in tackling wars. But after the Westphalian Peace Treaty, the trend of using mercenaries had altered. The following section will discuss the changing trend of mercenaries after Thirty Years of War.

Role of Mercenaries after the Thirty Years of War

There was a clear distinction between public and private violence with the establishment of modern state institutions. Furthermore, a gradual shift has been taking place in the organisation of military warfare. Rulers, after the Thirty Years of War, had decided to hire more forces. Though mercenaries were available in large numbers and famous for their efficiency, they were able to serve only as short term solutions of the unending wars. States then decided to adopt the permanent regular soldiers and establish the conscription of the citizen armies for safety and security. The monopolistic use of force which was earlier under the control of mercenaries had been transferred in the hands of the state, or regular soldiers. However, according to Isenberg (2009), from the fifteenth to seventeenth centuries, most of the private forces were hired for European State formation by the lords or kings.

Author Sean McFate (2014) asserts that states started building permanent armies in between sixteenth and seventeenth centuries and no longer depended on mercenaries. After the Thirty Years' of War, most of the rulers ranging from Roman Emperor to the King of France or Hungary, outlawed the mercenaries and replaced them. Standing armies had more to do with loyalty and their sacrifice for the nations. It is claimed that in the Middle Ages, states hired private forces just because they required the skill and advanced sophisticated weapons to fight with other states. Mercenaries used to supply this entire set up as they were specialised, well ahead of and more advanced than those of regular forces. However, with the technological development, states could train their own national armies. Earlier it was difficult for states to outsource its army, but according to McFate, with the introduction of the musket, states no longer needed to go for mercenaries in the war. For example, even the unskilled infantry could help the skilled knights or warriors by killing with the help of the musket. So for McFate, technology was an important tool to shift the states from using private forces, and further, more preference has been given to the national armies in the late sixteenth and the beginning of the seventeenth centuries. The states had the absolute monopoly over the use of violence. In 1660, under Oliver Cromwell and his army model in England,

and further after the Peace of Pyrenees in 1659, French policy of a standing army had a gradually changed the military history of International Relations.

McFate again talks about some factors which brought the demise of private military forces. Firstly is the change in the administration of the states which significantly transformed their political affairs. By building national armies, the states tried to improve the relations of the armies and states. Another factor was the outbreak of the English, French and American Revolutions which established national armies and hit the ambience of the international system with new ideas like the rational thinking, the concept of social contract as well as natural rights of humans. The idea of considering rulers with the divine rights of god gradually diluted and it was decided that the King should rule according to the wish of his subjects. However, in due course of time, states began the outsourcing its military forces to other states, and so states themselves became the primary market of forces. The rulers felt that war as an important component in building its territories, its own states, especially in Europe. It may be because of this reason that the rulers preferred state soldiers as they belong to ideal forces that defend their own territories. In the American War of Independence, private forces and contractors including Hessian armies were actively involved in the wars; however, the militia forces were converted into regular soldiers because of their genuine nationalistic feelings. After the Thirty Years of War, the significance of the private forces declined despite the existence of the military enterprisers.

In the Middle Ages in Europe (Mcfate 2014: 21), sovereignty was something which had nothing to do with the states, as sovereign states fought for powers among the emperors, lords, bishop, city-states etc. with the help of the mercenaries. However, in those days, complete authority including national policies and military forces, was controlled by states and not by the rulers. Thus, it seemed that the emergence of mercenaries challenged the sovereignty of the states. Because of this reason, mercenaries were outlawed; otherwise they would rather become a threat to the Westphalian States.

For Shearer (1998), as nationalism was at a peak in the twentieth century, the preference for mercenaries was reduced and the states started controlling its monopoly of force and violence. Conscription of the soldiers became the rule of the states who trained them to wage war. As his writing was during the Cold War, Shearer outlines the culture of the Western countries that prevailed at that particular point of time; where states had decided to stop intervention in the weak states as they did not have any interest in them. His concern was on the volatile situation of the weak states which then led states to hire forces available in the market. He visualises private military companies as opportunistic because they saw war as enhancing their business. Shearer's concern was more on the negligence of the world community and the international organisations which had paid little attention to the private sectors involving low-intensity war in the twentieth century and continuing into the twenty-first century as well. He further states that there is nothing that proves the emergence of private military companies would erode the sovereignty of the states.

The scenario has completely changed in today's world as states are willing to hire private troops. Shearer terms the re-emergence of the mercenary in the international affairs as 'new medievalism'. One feature of new medievalism was the difficulty to control private military forces. The author cautions that such re-emergence of mercenaries will intensify the violence as they will consider them as a private commodity which will change the nature of warfare. Furthermore, there is a huge competition among the states as well. The monopolistic use of force was enjoyed both by states as well as non-states actors such as multinational companies, international organisations, and non-governmental organisations, which also hold the legitimate use of force. The situation is such that war has become unsustainable without the help of private forces or mercenaries.

According to Tilly (1975: 13), with the emergence of the nation-states, national armies were completely different in Asia and Africa from those of European states. In his book, *Coercion, Capital and European State, 1990-1992*, he described two elements required in state-making and state formation. First is the accumulation and concentration of capital and coercion and the second is through waging war. Even though, his focus

was mainly on the European states, he highlights the importance of private or hired military forces in state-making as they took active roles in the wars.

Tilly illustrates that rulers not only purchased private forces from other states but they also rented them to others. Further, different states deal with other states differently; for example, states that were stable in terms of both capital and coercion saw rulers usually engaged with capitalists to rent or buy hired troops or mercenaries to defend their states. The need of private forces or mercenaries depended on what kind of state the rulers belonged to. For example, Tilly considers France and England as a balance states where rulers used hired forces to verify other states' private armies with the help of national armies. This also gave a chance to the rulers to build its own standing armies. The role of the state has been increased gradually and it resumed with the full control over the use of force towards the twentieth century. Wars were fought among states and mercenaries were relied upon even in the later part of the twentieth century. During World War II as well, the Chinese used American soldiers, known as 'Flying Tigers' to represent the Chinese forces against Japan.

However, the modern form of mercenaries, also known as PMSCs, came into the limelight in the early 1990s. Singer (2005) highlights three factors that motivate the emergence of PMSCs, the security vacuum created in the Post-Cold War era, the transformation of traditional warfare and the outgrowth of globalisation and the new gradual emergence of military industrial companies. Instead of being criticised, the private military forces were praised for their prominent role in Angola and Sierra Leone. The developed countries and other multinational industries realised the abilities of PMSCs in order to solve civil wars in these African countries.

However, according to Ortiz (2010), the challenge of the emerging trend of private military forces was against the monopolistic use of force by private forces as only states use legitimate force towards its subjects. In modern times, anti-state actors like terrorist groups, criminals and insurgents exercise force in various aspects within and beyond the territory of the states. In ancient times, forces were under the control by the rulers, monarch or government and they could assign forces to any agency which

they had faith and trust. These forces were under the whims of ruler's economic and political power and unlike modern mercenaries, they were hired individually. Sometimes nobleman instead of rulers, who were also known as military enterprisers or military entrepreneurs hired private troops as rulers' were inconvenienced by financial debt due to continuous wars. These military enterprisers and military entrepreneurs were very prominent and supplied the military forces with reasonable wages at par with those given by the kings.

With the emergence of the nation states after Westphalian Peace Treaty, the use of force by the private forces has been questioned by various authors. Mercenaries were seen as those who worked for money and they had nothing to do with the states. The above section highlighted the challenges against the private forces with the emergence of the sovereign states. States become the sole protector of the citizens, property, and territory and so on. So, it was doubtful for states to use private forces for the safety of its citizens and to defend them from adversaries. However, states could not wage wars without private forces. Hence, private forces even in the twenty-first century played a key role in waging wars. The following section will explore the role of private forces in modern warfare and how globalisation has impacted the whole process.

Impact of Globalisation and the Nature of Warfare in the Twentieth Century

Max Weber states that only the state has the legitimate use of force which could monopolise violence within its territories. However, due to the globalisation process, the state is not only the actor with legitimate authority to use force, and many non-state actors, transnational actors and even private forces are capable of exercising this legitimate force. Most of the states in the recent trend are willing to engage private forces in waging war through contractors. Examples are the Iraq War, wars in Afghanistan by US and also frequent wars in certain African countries. It shows the major participation of the private security forces, supplied by private companies through private contractors.

Diane E. Davis and Anthony W. Pereira (2003) also agree with the notion of dilution of the state's monopolistic use of force. They opine that the culture of contract between citizens and states at the time of conscription, which made the citizens work for the nations in the early nineteenth and twentieth century's, seem to come back in the contemporary world in order to defend the nation-states. By borrowing the Tillian notion on state-making, the authors conclude by saying that earlier, most of the states used non-conventional or irregular armed forces in order to strengthen the states by forming standing armies to simmer the inter-state wars and to augment state potential in terms of its institutional capacity.

For the very first time in European history, the French Revolution had enlightened all the states to set up its citizen armies in waging war, and hired troops started disappearing from being involved in warfare (Percy 2007). This was a significant transformation in the nature of warfare and the states chose to use citizen armies for the very first time. However, Percy comes up with three arguments including the Realist's argument, Avant's argument and Thomson's argument to explain the gradual shift of states from mercenaries to citizen armies. The first explanation discusses the change in the nature of warfare due to the material changed and the states' preference of citizen armies to wage such wars. The second explanation describes the increasing relations between states and citizens and the role played by the International Law which urged the world community to outlaw the mercenaries. The third explanation deducts from the above two and has to do with domestic politics and the states' realisation of the capability of citizen armies. Thus, there was an interlinkage between war-making and state-making in the history of Europe. However, Percy concludes by saying that these three arguments could not completely explain the process of the gradual change of the states, and that there were other factors that led to bring about this transformation.

In the twentieth century, states still continued the trend of using mercenaries. However, the question of legitimacy of the mercenaries was the key concern of the international community. The Cold War and decolonisation were at the peak and civil wars broke out in certain African countries where states used private troops to fight against rebel forces. However, these hired troops were different from the mercenaries as

they were hired through contractual basis. They worked under private military companies (Singer 2003) and mostly fought in the grey zones (Avant 2005: 246) where extra-legal authority prevailed and low-intensity wars were common unlike the great world wars (Singer 2001&02).

Fabien Mathieu and Nick Dearden (2007: 3) opine that the transformation in the nature of the warfare which happened due to the emergence of the private military forces also brought significant political, economic and social changes with the coming of PMSCs. When it comes to the question of democracy, the authors claim that the private forces nullify the democratic notion of the states. More than 48,000 mercenaries were stationed in Iraq and the industry earned more than \$100 billion dollars in 2004 (2007: 3). Shearer (1998) also asserts that private security forces, instead of stopping war and building peace, simmer the war. By citing the examples of Nigeria and Sierra Leone, Rita Abrahamsen and Michael Williams (2009) come up with the idea of how private military forces took an active role in these two countries which resulted in profitable outcomes for the private military forces. However, their perspective is different from other authors' concept of the private troops.

The above section illuminates the changing nature of warfare with the emergence of globalisation, which further leads to expand the global markets for private military companies. The concept of states as the sole protector of the citizens is no longer valid and for the safety of the states, other actors like transnational actors, even private forces could use force and violence like the sovereign states and private forces can influence the international system. The following section will analyse the influence of mercenaries in today's time.

Mercenaries in Contemporary International Politics

Ellen L. Frye (2005) says that as far as the definition of mercenaries is concerned, many scholars and analysts defined it in different ways. Even International Law does not provide any clear cut definition of mercenaries. However, the conventional understanding of the mercenaries is that they are profit-oriented as they

wage war for profit motives. He categorises four kinds of mercenaries. They are a) state-loaned soldiers, b) state-recruited foreigners, c) corporate actors, d) soldiers of fortune (Mockler 1969: 26). The first one relates to states' loaning the soldiers to others whereby the former states get money from the latter. For example in the sixteenth century, Swiss soldiers guarding the Vatican and similarly in the seventeenth century between Germany and Austria, the loaning of soldiers was quite common. The second kind of mercenary discusses the states recruiting foreign armies to take part in states armies. This kind of mercenary resembles the thirteenth century Italian Condotta which further helped to establish the Free Companies from 1337-1453 consisting of condottieri or contract forces. The third kind of mercenary is the extrapolation of the second one as it is based on profit-oriented mercenaries and much more like the mercantile company and modern Private Military Firms (PMFs). Examples are South Africa's Executive Outcomes (EO) and Military Professional Resources Inc. (MPRI) of United States. The last kind of mercenary is totally different from the other three, as for the emergence of PMFs; they were the main players and typical kind of mercenary which was very active in the 1950s and 1960s in relevant African countries. Paul Balor (1988: 7) by using Hilaire du Berrier differentiates mercenaries from the 'soldiers of fortune'. For Berrier, the former is related to those soldiers who fought on the battlefield while the latter belongs to freelancers whose life-long work is conflict. Again the motivations of the mercenaries are profit-oriented whereas the latter has to do with fame. But Paul disagrees with Berrier's differentiation of mercenary and 'soldiers of fortune' as it misguides the terminology itself.

Kjell Bjork and Richard Jones (2005) throw light on the fact that the tasks of the mercenaries kept increasing with regard to humanitarian assistance in the 21st century. But their tasks surpassed beyond a certain level and brought confusion in categorising them as civilian or combatants. This is one of the major problems of mercenaries of the twenty-first century, as well as being little known to the world community.

Clive Walker and David Whyte (2005: 651-52) term the current nomenclature of states as 'Ultra minimal State' by using Robert Nozick's book on '*Anarchy, State and Utopia*' where he describes states as entities which do not focus much on the security of

the citizens but rather on the monopolization of force. Many security analysts believe that mercenaries have no role in today's world and it has been outlawed since the late eighteenth century and the beginning of the twenty-first century. However, Walker and Whyte (2005) assert that there is still a problem in the demarcation line between mercenaries, private security companies and private military companies. However, the latter is considered as the latest and a new form of modern mercenary, even though there is a problem in its definition as no it has no international legal recognition.

For Bjørn Møller (2005) there is some commonality between traditional and modern mercenaries which are also termed as private military companies (PMCs) based on their skilled soldiers and involvement in the war for profit gain. Their corporate features and myriad activities make a difference from the traditional mercenaries. Further, another difference is that because of their corporate nature, PMCs operate at both macro as well as micro levels. By macro level the author means that private forces are ready to go to war for those who pay them handsomely. At the micro level, he means the grey areas where violent crimes like rape and the atrocities of civilians are prominent.

The author also talks about the positive side of the mercenaries or modern PMCs. There are some activities which only the private forces are able to perform, and in terms of cost efficiency to defend their standing armies, most of the developed countries prefer the private forces. The private military forces are considered to be synonymous to mercenaries and as stated by many scholars in International Relations, and Møller provokes the idea of dilution of states or decline of the sovereignty due to the emergence of private forces or mercenaries. Instead, they are enabled in contemporary state-building like they did in the early ages in the founding of the European states. There may be a time where PMCs play a more legitimate role in state mechanisms as compared to military forces.

Abrahamsen and Williams (2009) also opine that it will be wrong to jeopardize the concept of privatisation of security by focussing only on the war-related fields. They do not consider the emergence of PMSCs and how their activities dilute the sovereignty

of the states. Instead of focussing on war, the authors come up with the new concept called 'global security assemblages', where they talk about the relations between public and private.

Rouba Al-Fattal (2007) opines that the emergence of modern mercenaries or private military firms could lessen international conflicts by acting as peacekeepers. He discusses the emergence of two groups- one is supporting the PMFs and the other counters the PMFs. The former claims that PMFs have the potential enough to resolve conflicts in the international systems on a calibre next to NATO and the UN. The latter group, however, focuses more on the forces' short time remedy. They accuse PMFs of their business oriented company, lack of transparency and ambiguous nature, and further suggest their short term solution would not work in the long run. So for them, it is difficult to staff the PMFs forces as peacekeepers or rely upon them for conflict resolution in the battle field because their motive is based on profit-making nature. Instead, it is better to find for the root cause of the problem that spawns the wars like wildfire and to make sure to undo and finish the war so that peace could be built in the world community. The author also talks about the dual nature of PMFs that is both military and economic but lacks the political concern. Further, another pressure is from the international community related to the lack of PMFs having both a legal status and code of conduct as is there with regular forces. Not having legal status means they do not follow the norms as a regular soldier does; and this is another hindrance caused by the private forces in International Relations.

Mercenaries perform multiple tasks in today's international politics ranging from battlefield to military training camps. They contribute to various humanitarian assistances especially in failed states. However, due to lack of legal status, the questions on the relevance of PMSCs are posed by various scholars as well as war strategies. To answer the above questions, the following section will explore whether PMSCs are still relevant or not in the international system.

Relevance of PMSCs in the International System

Most of the security analysts in today's world are concerned whether the role of PMSCs is still relevant in the current trend of the 'New War' (Kaldor 2006). New War, a term given by Mary Kaldor, defines war fighting for identities rather than economic or political gains, and has broken out in most of the weak or failed states. Examples are the active roles of PMSCs in Angola, Iraq, Afghanistan, etc. It seems like wars are unsustainable without the involvement of private forces, so states are now willing to hire them.

Unlike mercenaries, modern PMSCs are licensed to use coercion and violence. This is one of the key issues of relevance of PMSCs. Authors such as Musah and Fayemi (2000) disagree how PMSCs work by citing examples of their impact in certain African states. Thus, it appears as if violence became a private commodity and national defence policy is shaped by profit motives. Furthermore, the authors are against the emergence of private forces as it will not work in the long-term process. It is a traditional notion that only the states have the legitimate authority to use force within its territory (Weber 1918), but this notion deteriorated with the emergence of PMSCs in the system as they have been provided the rights to use coercive measures in the wars. This new trend has challenged the Tillian and Weberian notions of the sovereignty.

The next issue is regarding the roles of private forces in the battlefield. As the private forces have no legal status, questions can be raised on how it works in the battlefield. Unlike a regular soldier, who have their own military code of conduct, private forces do not follow norms framed by any states' military code of conduct. Another important point to draw attention to is that the line between civilians and combatants is always blurred. When they violate the laws of the war in the battlefield, the private forces cannot be punished for their crimes by the international community. Scholars like Cameron (2006: 573) claim that the first and foremost important issue is to offer legal status to the employees of the private military companies. It is not that easy to grant the legal status to employees of the PMCs as it has to be approved by the world community. Legitimacy per se is very important for the nuts and bolts of PMSCs in

international affairs. Cameron differentiates PMCs from mercenaries by saying that the latter could be punished under international laws and detained under Additional Protocol I, and also they could operate in the non-armed conflicts. However, there is no such thing in the case of PMCs. In fact, they cannot even put under the category of Prisoner of War (POW). So the transparency issue, the problem of accountability and human rights violations could be reduced once the legal status of the employees are granted and proper regulation could take place. The answer to the relevant questions regarding the PMSCs is still under the puzzle.

More explanations arise from different scholars regarding the role and active participation of the private forces, which has been augmented gradually in the modern warfare especially in the third world as well as grey zones. For Shantanu Chakrabarti (2009:14) there is no international convention that deals with PSCs as most of the scholars focus more on mercenaries. There are some international conventions which talk and analyse the regulation of mercenaries such as The Hague Conventions (1907); the Geneva Conventions (1949); the UN Charter and related Resolutions; Article 47 of Protocol 1, additional to the Geneva Convention of 1949 (1977); Declarations and Convention of the Organisation of African Unity (OAU); and the UN International Convention against the Recruitment, Use, Financing, and Training of Mercenaries adopted in 1989 (Chakrabarti 2009). Goddard (2001) opines that the lack of legitimate authority to command the PSCs hinder their regulation to operate effectively which further creates the problem of accountability.

There is still confusion about the categorization of employees of PMSCs as combatants or non-combatants in Contemporary International Relations. The tremendously increased involvement of the private forces shows the sign of their relevance in today's world. Despite its flaws and problems, states still prefer to hire private forces which in reality become the backbone of the modern warfare. The issue is still under the control of strong and powerful nations and they manipulate the international systems despite the position of smaller or weak nations. It becomes the mandatory for weak states to follow the whims of the strong states.

Conclusion

This chapter observed the significant role of PMSCs in contemporary world. However, their historical importance should not be neglected as it has contributed to building the current platform of PMSCs in the international system. Here, the important point of the chapter is how the kings and rulers in ancient times found little difference between the hired forces and their own armies. However, with the emergence of national armies, the trend had been shifted as most of the states preferred both to conscript or train their armies, like hired forces for the safety of the citizens and to defend the nation-states.

The chapter also highlighted the impact of globalisation and technological development with new weapons that make easier for states to train their unskilled citizens and thus stop hiring forces from other states. Another significant point of the chapter is regarding the dilution of sovereignty as the legitimate use of force by the states had been transferred into the hands of the hired forces. The chapter concludes by saying that in contemporary warfare, the role of private forces is very prominent and they will continue to play a fundamental role in modern military warfare, though the relevant issue of PMSCs is still under question.

Chapter 3

State Motivation behind Using PMSC

Introduction

The historical background and the evolutionary phases of mercenaries have been studied in the previous chapter and how it contributes to Contemporary International Relations to transform the nature of modern warfare. The objective of the previous chapter was to explore the phenomenal transformation from the Pre-Westphalian to Westphalian states and how the states had traditionally used both the hired forces and state military forces in waging war. The trend of exchanging the soldiers between the kingdoms was prevalent in ancient time and thus, mercenaries could be bought and sold from time to time. The main driving force in sending and buying hired forces in those timing was to increase the income of the kingdom. But after the Thirty Years of War, the Westphalian Peace treaty was signed which resulted in the birth of nation-states. The fashion of hiring private forces by the Westphalian states had been continued till late seventeenth century and the beginning of the eighteenth century.

However, with the beginning of the nineteenth century, certain changes took place in the military institutions of states due to the technological revolution and the period of enlightenment. This led to the transformation of states in choosing states' armed forces by building its own army from hired forces. This change had brought a significant transformation in the evolution of militaries. Many laws were passed to proscribe the use of mercenaries and some laws were even agreed to stop sending or receiving armies from one state to another. Despite such changes, states still preferred to use hired forces in war. But the main motive of hiring of private forces in modern times differs from that of ancient times. The main objective of this chapter is to analyse the factors that motivate the states to hire private forces in waging war. It will further outline the importance of economic factors for states in deploying hired private forces to achieve their political interest.

Use of PMSCs in History

It is not surprising that hired forces played a significant role throughout the military history, as it can be traced back to ancient Greece and Rome. The mercenaries served for the kings or lords in ancient time, and in return, they were paid handsomely. For example, kings of England hired military forces to wage foreign wars; and even the Italian Condottieri in the fourteenth century could be cited as an example to provide resources for the military services of Italy. The rulers found the tradition of hiring mercenaries very attractive as they were proficient fighters and the lords did not need to spend extra money to train the citizens for military services. It also helped to stabilise and boost the states' economy (Zarate 1998).

Perhaps there was no question on mercenaries for their loyalty or enthusiasm until the Napoleonic era where the idea of nationalism was sprouted and the soldiers were willing to fight for their own states (Gabriel 2005). In situation where the security of the states was concerned, private forces were less reliable than standing forces to defend the sovereign states from the enemy (Fate 2014). Hence, most of the Westphalian states preferred to build their armies through conscription of its citizens (Taulbee 2007). Thus in earlier times, the purpose of hiring private forces was either to create new kingdoms or defend them from adversaries. For Tilly (1975), wars make states and private forces contributed to building states and expansion of its territories by participating in the wars. Even hired forces have contributed a lot in fighting for American Revolutionary War in 1775-83 (Singer 2007). The hired forces had exercised and fully enjoyed the legitimate use of force in wars. The enforcement of violence was not in the hands of the rulers or kings, but it was directly exercised by hired forces or mercenaries. No one acknowledged such legitimate use of force by hired forces until the twenty-first century.

Most of the rulers in Pre-Westphalian states hired private armies to wage war along with native soldiers. However, anti-mercenary laws were passed in the beginning of the nineteenth century and the states agreed not to recruit its citizens for the sake of other states by passing neutrality laws (Fredland 2004). And the use of mercenaries had

been reduced in the battlefield. Perhaps the trend of hiring private forces by states has decreased and more emphasis on building the standing armies and to conscript its citizens. Nevertheless, the use of hired forces could not be totally discounted by the states in waging war (Singer 2005).

Isenberg (2009) claims the abhorrence of the mercenaries had increased since the emergence of the nation-states after the Westphalian Peace Treaty of Thirty Years of War. In ancient times, most of the kings and the military entrepreneurs used hired forces for defense from adversaries which was the main purpose of using private forces. By borrowing Tillyan and Weberian concepts on the legitimate use of force, the author states that war-making and the monopolistic use of forces were the ultimate steps, states took to stabilise the situation. War seemed to be a profit making business in ancient times and taxation was one of the important mechanisms to raise money for war (Chwastiak 2007). With the introduction of tax, states could afford to produce more military forces and even the American Revolution would not have become successful without the help of hired forces.

According to Tilly (1975), war is inevitable for states-making and nation-building. For him, war is the only way for every nation to recreate or rearrange the structure of the states. To bring the effective result out of war, the first and foremost thing for states is to build strong armies and to efficiently maintain its military affairs. Standing or national armies and the hired forces played an important role to guarantee and maintain the strength of the states. Hiring armies from other states and to build a strong army to successfully wage war and to expand their territory is the top most priority of states. Those states with sufficient resources have started looking out to outsource their forces to other states. In a nutshell, the importance of private forces was in serving and building their respective states.

The watershed of the private forces had come to limelight in the twentieth century. They had worked for the private contractors and are different from those of earlier hired forces or mercenaries whose duty was to fulfil the whims of the contractors. For Singer (2005), the emergence of private military forces in International Relations

could be explained by giving three factors. First, the conflation of international events such as globalisation and the end of Cold War which demanded more private forces and the willingness of the strong states to contract out the forces to other demanding states and states become more or less like a free market model. Second, the booming of private military companies due to downsizing of military institutions of the states which further led the nations to buy the private forces from the market. And last but not the least the powerful countries had no more interest to engage war in weak states by deploying their own armies.

It is not irrational to believe that most of the private forces joined the war for profit earning as they were handsomely paid by the host states. However, Varin (2012) nullifies this very notion of the profit motive of the private forces. Instead of looking through that lens, she argues that most of them sometimes joined war because of their passion and chose the military as their profession. Even though they understood the risks of joining the private military as their profession, they still had passion and joined the profession. It will be absurd to say that the economic motive was the only factor which led the private military forces to go to war in alien places with uncertain consequences. Other factors such as the potential of the private forces, their capabilities, and fearlessness to fight (Isenberg 2009) make them join the private military companies. If the focus is only on economic motive, then there are many private forces that did not get their salaries in proper time which is completely opposite to the societal perception about the private forces. They could not even enjoy their life just because of the default payment by the contractors.

The rulers upgraded the size of the state forces by replacing mercenaries through conscription (Moyerfinal 2009). From the twentieth century onwards, the role of the private forces was minimised as the state forces became a dominant player in the war along with the private forces. During the Cold War period, private forces were in minimal numbers as both the superpowers were in the race for increasing their own. However, after the disintegration of the Soviet Union, the US felt less insecure and the government decided to downsize the military strength of the state. However, Francisco

(2008) opines that the US military institution still comprises of both states armies as well as a number of hired forces to wage war abroad.

The above section has discussed the purpose of hiring private forces by the kings and lords along with their native soldiers. The question of legitimacy of private forces was lacking in ancient times. Since, the trend of hiring private forces had shifted after the Westphalian Peace Treaty, states preferred to use states' forces rather than private forces. However, the hiring of private forces could not totally be discounted and the states would tend to hire the private forces in waging war along with regular soldiers, even in the twenty-first century. The following subsection will discuss the nature of PMSCs, and what brings the states to hire PMSCs to fulfil their goals after the end of Cold War.

Trends in the Post-Cold War Period

After the demise of the USSR which later divided into fifteenth separate independent nations, the triumph of the liberal school of thought and the paradigm of the international politics have shifted from a bipolar to a multipolar world. At the same time, the international events such as globalisation, privatisation and liberalization were at the pace of its zenith. Everything seemed so integrated that events that took place in every nook and corner of the world could be accessed in a few seconds. The conventional wisdom to consider the states as the sole player and the primary protector of the civilians in the international community is no longer valid. At the same time, the threats that used to earlier come from the states are no longer a serious threat as the new version of threat emanates from terrorists, drug traffickers, and local warlords who create discomfort among the prevailing ruling class (Singer 2005: 9) has been multiplied. The most important thing is the gradual shift and change in the nature of warfare. When the Cold War was at its peak, the countries fought high-intensity wars where highly sophisticated weapons were commonly used by the superpowers whereas among the small states proxy wars were fought (Singer 2005). In those wars, one could easily identify the kind of forces and who are combatants and non-combatants.

The nature of the warfare in the twenty-first century was different but very significant. The modern military armies do depend on the private military forces provided by the PMSCs, and this kind of war was fought within the states, not between states. The clash is between different nations and communities and is based on low-intensity war (Singer 2005: 12). Stronger states with good resources can handle the wars easily however the weaker states with poor resources are unable to tackle the situation because of their own corrupt government. Instead of solving problems, they seek help from the private contractors to suppress the rebellions. As the private forces are well trained, possess sophisticated weapons as compared to regular soldiers, the volatile states were fascinated to contract them in times of need. In return, the states will pay either in cash or other valuable resources like diamond or coal based on what is available in the states. This impacted the ethics of the regular soldiers which will be discussed in details in the remaining chapters. It could be argued that the availability of security in the market is also an important factor for the changing nature of warfare. Security becomes a private commodity whereby any state can buy and sell armed forces in order to wage war if needed and they have a political interest in any particular state. In fact, it seems like war could be fought at any time, at any place because the very notion of war itself is privatised whereas the military forces required for war, are available in the global market. Chwastiak (2007: 3) observes that the number of private forces from Gulf War I to Gulf War II increased.

The security issues of the states have been expanded and became more complex in the late twentieth century and the states could not handle all the security related issues alone. According to neoliberal institution, in order to supply the demand of the security services by the states, private security companies come into play. Slowly the concern of the neoliberal is no longer on territorial expansion of the states but so on the widening of the markets and outsourcing. And the need of private forces to serve for the security services has been amplified tremendously. Hence, it could be said that according to this institution, the privatisation of security leads to privatisation of war (Chwastiak 2007: 5).

Holmqvist (2005:12) opines that during the Cold War and its aftermath, weak and failed states seemed to hire more private forces; not just to provide the security for their own people but to maintain the status quo of the ruling governments. Sometimes private forces served for the big multinational companies especially in weaker states for the safety of the business war mongers along with the local rulers. Private forces operate in some particular regions in weak states where corruption was the epitome of the states. But the author warns that too much dependency on hired forces may generate the following dangers, especially in weaker states. First, the efficiency of hiring private forces could only lead to short term outgrowth which will neglect the importance of security required by the states. The risks that prevailed in weaker states had been minimised by hired forces but the problem here is that this is only a short term and there is no foreseeable long term prospect for the companies. The second point is related to the distribution of security forces among the population. The use of private forces in weak states will aggravate the stable situation of the state itself as most of the private forces are less influenced by their anonymous contractors which further lead to the continuous conflict in the regions. The final point is regarding the state construction for the maintenance of law and order. Many states preferred hiring of military forces because of the efficient result in the short term basis, quality of the forces, and financial related problems. Instead of building strong standing by the states, they look out for hired forces to fix the problems in a short time period. Once their work is done, states could terminate their contracts with hired forces unlike the permanent state forces and the government has the responsibility for state forces for the rest of the year in terms of salaries and related issues. This is why most of the states are lured to use private forces than the national armies.

Not only the economic factor, international events like globalisation, privatisation and liberalization have impacted states to hire the private forces to fulfil their increasing demand in terms of security within states. The above subtopic has discussed the nature of war that had shifted in the international politics, from high-intensity to low-intensity war. This pulled the states to hire more private forces to fight for low-intensity wars within the states. Even though, private forces operate differently

in different states. The following subsection will elaborate how private forces function in both weak and strong states.

Nature of Private Forces in Weak and Strong States

It is a general notion that states hire private forces through private firms to overcome the public expenditure of the states in the military institution. In today's world, private military forces become the backbone of modern warfare. However, many scholars are against the notion of reducing military expenditure. But the impact of private forces differs accordingly to different states. Some states benefit from privatised war by raising the tax from private companies. But the profit goes only to some political elites of the society (Michele 2007: 15-17). At the same time, the author assumes that the privatised war could lower the political costs of the states which enable to reduce the risks. The second factor highlights the overt activities of PMCs that could be carried out by the states abroad. The third one relates to the ambiguous nature of the PMCs which blurs their boundary of being combatant or non-combatants.

Most of the job seekers are from those countries which have shortage of resources and therefore they look forward to jobs abroad. Another important point is that in these countries, cheap labour is abundant and most of them have joined the private military forces by considering it as their profession through private business contractors. It is not because they want to join but they must support their daily and family needs and therefore they end up landing in war-prone areas. The situation becomes worse as the motive of private military forces goes beyond the economic interest (Pamela Hess 2005 and Rarabici 2006). Sometimes the private forces do not know where they are and whom they are fighting for. They were hired through contract with the assurance of a job and once they signed the contract, they could not quit. Sometimes their passports were confiscated so to prevent them from leaving (Cha 2004; Chatterjee 2004; Phinney 2005; Simpson and Madhani 2005).

The aim of the private contractors is to earn more profits, so there is no accurate plan to stop the wars and to only continue it endlessly. Wars boost the business of the

giant private contractors to run their firms smoothly, and the private military companies are concerned more on efficiency and effectiveness of war under the command of the private contractors. The privatisation of war fulfils the goals of some political and economic elites which enable them to make more money.

The effectiveness of private military forces working for PMSCs generates different outcomes differently in weak and strong states (Holmqvist 2005: 11 & 22). By weak states, he meant war prone zones such as countries like Iraq, Afghanistan and some countries in Africa. In these African countries, the maintenance of law and governance are very weak and the states are unable to handle the existing circumstances that prevail in their society. In this situation, only the private forces could be able to solve the problems as they are well equipped and well trained with modern military techniques as compared to the state forces. Hence, the state governments suppress the ongoing crisis by hiring private military forces through contractors.

However, there is another side of the story coming from the efficient or strong states. It is general notion to narrate the story of private security companies from the perspective of the developing nations. However, the strong nations hire private forces through contractors to achieve their military as well as political goals. For strong states, private forces are needed to maintain and govern other services such as health care, transport and other government functions apart from the military activities. Private forces are better regulated in the strong states than in the weak states, though both to face the same problems. The strong or efficient states have problems with the private forces such as transparency issues, no clear-cut mandate and a lack of coordination between the private and state forces. In strong states, the function of the private forces is not confined only to military activities but operate in other agencies like intelligence and minute activities which the public sector has handled over to private forces (Caroline 2005: 23). Also most of the capital is privately possessed in the developed countries. Even the maintenance of domestic law and order, foreign relations and the defence sector are now controlled by the private contractors (Møller 2005: 8-10).

The host states, as well as contractors, have parallel priorities. They visualise to achieve their primary goals as to earn a more financial profit. Most of the military forces of the PMSCs are retired army officers or highly military trained personnel. Hence, states have the tendency to outsource the military and security services to the private companies, augmenting the establishment of more companies (Williams 2014). Isenberg (2009) states that powerful country like the US hugely depends on the private contractors to as fulfil its political goals, acting as a global guarantor and global police to provide global security. This could be achieved with the help of private contractors, PMSCs and employees of the private military contractors. The advantage of using private forces is their efficiency and their ability to mobilize military personnel quickly. There are fewer political barriers from the states in deploying private forces rather than state forces as they are autonomous and easily available in the market. Another advantage is the assurance of providing services to the local people. Examples could be cited from the case in Iraq and Afghanistan whereby private contractors were used on the top of US military forces. There has been continuity in the military services operated by the private forces which make feasible for contractors to hire private forces rather than the state forces. These contractors are trained and have good skills for negotiation (Fredland 2004).

The above subtopic has revealed that PMSCs perform differently in both weak and strong states and their motivations of hiring PMSCs are also different. As a result, the effectiveness of the PMSCs produces different outcomes in both weak and strong states. For example, weak states are job seekers, trying to normalise the unstable society, fighting against their corrupt government and trying to stabilise internal conflicts. However, it is totally opposite to strong states as their focus is more on substitution of minute public sector functions to privates so that it will boost the policy of the states. It is considered that economic interest is the prime motive of states to hire private forces. Yet, there are other motivational factors that make states to hire private forces, which will be discussed in the following subsection.

Other influential factors that motivate states for PMSCs

The number of private military companies and firms are rapidly amplifying day by day. Most of the states in the Contemporary International Relations employ more staffs provided by the private military firms than the actual number of the public military forces (Richards and Smith 2007: 9). The monopolistic use of military forces by the states has been transferred in the hands of the private forces. The rise of the PMSCs could be the result of fiscal constraints,¹ means the fiscal crisis due to the budgetary problems. As such, states plan to deduct the budget of the public funding for the security of the states and this kind of void has been filled by the security provided by the PMSCs (Newborn 2001: 838). The budget for public intelligence branch has been reduced and instead, private intelligence budget increased just after the end of Cold War. This may be one of the factors for the increasing number of private military firms, which make it difficult to distinguish public from that of the private intelligence (Gill 2006: 37).

Most of the states nowadays could perform their core tasks more efficiently with the emergence of private military and security companies, as they transfer their minute tasks to the private sectors. Examples such as employing of 500,000 security guards by 10,000 private security companies in EU² as well as 200,000 private security guards worked in South Eastern Europe are significant. States such as Israel, U.K, US and South Africa do contract more with private individuals and their states' budget in private sector exceeds the expenditure on public sector (Richards and Smith 2007: 5). States require armed forces with well trained and skilled personnel for the maintenance of law and order, in order to ensure the security of the states. Most of the states consider private military forces as efficient fighters possessing quality weapons which assure the states of their safety of their citizens and security from adversaries.

Some claim that the increase in demand and supply of the military services provided by the states in the international market trigger the increasing engagement between states and PMSCs to fulfil their purpose. However, other factors such as

¹ Based on the report released by Democratic Control of Armed Forces (DCAF) in 2009

² Estimated by Confederation of European Security Services (CESS) in 1999.

downsizing the military strength of the states in the Post-Cold War era and the sudden outbreak of low-intensity wars in the developing countries and war-torn areas facilitate the increasing demand for military interventions in those regions. Thus, private military firms provide the requirements to suppress these low-intensity wars (Singer 2001/02: 12). Some states are unable to provide adequate security and safety to their citizens. In recent trend, the task of supplying the security has been replaced by the market. Another factor could be the impact of globalisation impacts that foster states to adopt the private sector for their security.

Scholars like Stenning (2000) state that the relationship between the public and private should not be seen as something anti to each other but rather they are complementary. Schreier and Caparini (2005: 131) claim that the very methods for every state has to provide security, defending their territories and to protect its population are different. Some states are unable to facilitate such defence mechanisms quite often. Also, they do not get any assistance from other states and other international organisations for preventing serious internal disorders that prevail within the states. So for them, there is nothing wrong in seeking help from professional soldiers to train their regular soldiers in order to build more secured states and to maintain law and order. There is no harm for such states to ask for any other kind of support from the PMSCs to ensure the normal life of the states, free from violence, chaos and suppression of the internal conflicts.

Not only do the states need proper and well-trained forces, international organisations like the United Nations also need private forces to stop or control wars in war-torn regions, where frequent conflicts and violence are prominent. The UN finds it hard to perform such tasks without a standing army, so the organisation seeks member states to contribute armies to build peace in volatile states. Waiting for such a contribution from the member states for any peacekeeping operation is less effective as mobilisation of the military forces is quite a slow and time-consuming procedure. Another problem faced by UN is that the forces from the member states are poorly equipped, not well trained, lack proper discipline for peacekeeping operations. The management of the UN in peacekeeping operations since the 1990s has not been

effective in the failed states or gray areas (Schreier and Caparini 2005: 19; Avant 2005: 264).

As the private military forces are basically well equipped, skilled forces with sophisticated weapons, mostly ex-military officers with experience and intelligence of handling situations in the battlefields, private military forces are more in demand for maintaining peace and stability in volatile and war-torn states (Schreier and Caparini 2005: 81). So the authors assert that if private forces could handle the atrocities that took place in the world, then the regulation and effectiveness of the private forces should be recognised and welcomed by the international community.

Here, some positive aspects of PMCs could be addressed in the peacekeeping operations. For Schreier and Caparini (2005: 10), peacekeeping operations are the only field where most of the states have no say in the operational of the private military forces. The PMCs perform three functions regarding such operations such as logistical support; security and policing functions and military support (Lily 2000: 1). The way PMCs function in any war zone and peacekeeping operations are almost similar. Private military forces not only help in peacekeeping operations, but also take active part in providing in reconnaissance, surveillance, and intelligence and building trust. This shows the effectiveness of PMSCs on one side and the shortcomings of the United Nations on the other. The author thus believes that such private military companies could bring about solutions to the political, social and financial problems of the UN and other related organs as well.

The paradigm shift after the end of Cold War motivated the states to use private forces to intervene in conflicts. For example, after the series of the unfortunate events in states like Somalia and Kosovo, the member countries of the NATO are unwilling to offer their troops to fight for such conflicts, as these countries are no more willing to face casualties in such conflicts. Another interesting issue is that even when states started using private forces, the public could not say a single word against the use of private forces as the attention of the public has been diverted in the name of national security and promoting the financial effectiveness of the states. Also, the states focus

less on the death of the private military forces in any conflict than the national troops. The use of private military forces in wars instead of using the national troops make it easier to escape from being accused by the public for deploying state armies abroad to wage war for the sake of political interest. Hence, it becomes a moral obligation of the states towards their own citizens and for the prosperity of the national troops.

Another factor for hiring private forces could be related to cost effective benefit; that is to reduce the expenditure on defence. It is because of this factor that the US government hires private forces while waging wars, instead of deploying their own military troops (Singer 2003). Another factor which motivates the states seek private military forces is to support the humanitarian assistance as private military and security companies serve as an alternative to the military forces. Sometimes, PMSCs generate less risk of public anger as compared to the activities performed by the national armies as the focus of citizens and mass media is more on the ill-treatment carried out by the public sectors, the corrupted political power of the states and the violation of public trust. Actually, the public attention has been drawn more towards the mistakes and violations which have been committed by the public sector (Schreier and Caparina 2005: 102).

Chwastiak (2007: 16) highlights that emergence of the PMSCs has provided jobs to people in the developing countries who migrate to western countries as job seekers. For example in Iraq, most of the employees of the PMSCs who serve in logistics, reconstruction and security related services are workers from developing countries, and the countries like the US and other big western countries offer those jobs to them. Out of forty-eight thousand employees who serve for KBR in Iraq, thirty-five thousand workers belong to developing countries or global south (Simpson 2005). Scholars such as Johnston (1999: 176) see the emergence of the private military and security companies as problem solvers rather than focussing on the negative consequences. He argues that the purpose of the PMSCs could be seen as an alternative, to question and analyse the system of contemporary governance. As the features of the states are under the process

of transformation, the governance of the contemporary states has more to do with corporate, commercialize.³

Trim (2000; 2003; 2005) focuses more on the intelligence sector of the states. The private military companies could help in the military intelligence of the states by assisting the corporate intelligent officers to join and help the government. He divides the company intelligence service groups into three. First group combats domestic and international crime without breaking government sanctions. Second ensures the safeguard of the earth's resources to stabilise the situation and to look after the states' wealth. Third group has to do with the elimination of threats to protect the security of the states.

Some of the states have the tendency to export more and more arms and sophisticated weapons to other states especially in the developing countries or the global south because these are the states which are more war-prone regions and they need different kind of weapons. The developed countries are eager to earn more and more money and ready to embrace the booming of private military and security companies. Unlike the regular soldiers, the private forces own very expensive and sophisticated weapons in order to serve the goals of the contractors. So these countries never ask for the complete abolition of the private military forces and they are not ready to outlaw the private military and security companies. This could be one of the important factors for the state to go for private military forces.

In today's world, security is not only flourishing within states itself but within in the market as well. Security can be bought and sold in the markets. Any state can wage war if they have a political interest in another state with the assistance of the private military forces through private contractors. And thus, privatisation of security leads to the commodification of war (Williams 2014: 1467). As a result, security firms have to create the environment of insecurity in state, so that they could invest more private military forces in the name of providing security and at the end they will surveil the society. Dorn and Levi (2007) assert that private justice of the states could be established

³ Released in 2009 report from DCAF

with the help of private policing. This kind of justice resembles the state judicial system, so some states are willing to embrace the private military and security companies in order to regulate the states.

In some states, civilian private firms are hired to serve for higher officials such as guarding dignitaries, celebrities, and political leaders apart from safeguarding the physical assets and serving in battlefields (UN 2014). There are certain things which the public military forces cannot perform; such as serving the residential security, especially in those private gated communities. Private forces are needed to protect these areas. Countries such as in North and Latin American and some parts in African countries, private forces are required to guard the border fencing areas. Not only this, private forces also serve sometimes for the protection of the critical national infrastructures. States such as Cyprus, Jamaica, Japan, Switzerland, and United Arab Emirates etc. have decided to contract and hire private forces to look at the threats coming from extremists and natural disasters as the budget of engaging public forces to protect such critical infrastructures will be huge. The governments of these countries have instead, decided to engage with the private forces. Some states with the help of private forces try to alter the prevailing political system and rearrange the moral and legal obligations that exist in the states (Varin 2012).

Crimes are inevitable in our society. To prevent these crimes; and to ensure the safety of the citizens is the sole responsibility of the states. The states thus engage with the private firms to prevent from such crimes and to promote the human rights of the citizens. This fashion of depending of private military forces is a welcoming trend of the states in the current decade as they do support states' armed response such as to guard the prisons of the states, maintenance of law and order and so on (Cilliers and Cornwell 1998: 230).

For weaker states and failed states, it is very difficult to control the violence that prevails within its society. The states' military forces are not in the condition to tackle the violence alone and even the poor governments remain speechless regarding the issues. Hence it is sometimes better not to depend wholly on the states' forces to

suppress the conflict though it holds the legitimate monopolistic use of force. Private military forces herein could solve such problems to overcome such situations that exist in these societies (Wulf 2005).

The lack of legal status of the PMSCs sometimes drives states to hire private military and security companies. The states consider sending national armies abroad as disadvantage not only in terms of expenditure, but there is also the question of responsibility of the military forces. Not only the compensation, but also when lives of the citizens are in risks, the public began questioning the government's motives itself. Conducting a war is not that easy as there are domestic as well as international barriers. Besides, the government has to answer to such questions raised by the public. On account of these factors, states always have the intention to hire PMSCs in waging war.

During a conflict, unlike the regular soldiers, private forces do not follow any military code of conduct and the lack of legal status is flaw of private forces (Schreier and Caparini 2005). Even the domestic laws of any state do not apply for private military forces as they constantly move from one state to another state once they are done with the contracts. And there are no such laws to punish the private forces as they neither fall into the category of civilians nor combatants and their main motivation is to gain more and more financial profits. Hence it is very complex for the states as well as the international community to legislate and execute any legal mechanism to punish them for the crimes they have committed in wars. By taking this very opportunity, states in order to escape from such responsibility, prefer private military forces to perform the tasks assigned by the states without disclosing their names in the international community.

The regulation of the private military forces in the war has nothing to do with the states who hired them. Private contractors bridge the gap between the private forces and the hiring states and the hiring states are not responsible for all the crimes committed by the private forces such as human rights violation, massacring civilians, rape, drug trafficking and so on (Devries 2002). But scholars like Faite (2004) claims that the hiring states should be responsible for such crimes.

Scholars like Singer (2003) and Avant (2005) assert that emergence of privatisation of security in states like US, UK and other big countries, are more beneficial in managing the states' budget on military and defence and in conducting war abroad. As Singer points out declaring war on another nation abroad is not that easy especially for US as it has to be approved by both the Houses. PMSCs play an important role in this scenario, where they hire private military forces to carry out the covert operations successfully.

The private military forces are set free from being punished for their crimes committed during wars and the hiring states are not in charge of those crimes. Some states do enlist PMCs in order to avoid the legal responsibility. The private forces enjoy impunity for their crimes committed in the war (Boggs 2008). The command to carry out the war comes directly from the private contractors, and not from the states who hire the private forces. Examples could be cited from the private forces hired by the US in Iraq who cannot be punished either by American laws nor Iraqi domestic laws. Thus this is one of the factors why states hire private forces to wage war at national as well as international level.

Another key factor for hiring private forces by the states is to protect the dignity and reputations of the states from being criticised by derogatory compliments from the world community, which will save from the defamation from other nation-states. Because of the reputational problems, most of the states choose to hire private forces instead of sending states' army for war abroad. For example, private military firms like Blackwater in Iraq became notorious because of their brutal way of conducting war which affects the Iraqi civilian populations, though it is hardly known to the world community that the US was behind this. Hiring private military forces to carry out the overt operations will save the states from such insult.

Another factor is regarding the foreign policy of the states. Fable (2010) asserts that private military firms like Blackwater influence much in the US foreign policy and Executive Outcomes (E.O), a South African company, provides a significantly impacts African politics. Some countries provide forces to recruit private contractors of the big

business firms to continue the business. Singer (2004) puts forward the concept of privatisation of foreign policy where it is assumed that the privatisation will make it easier for the states in their decision-making process without facing domestic barriers. Even Avant (2005) claims that PMCs could be used as a mean to achieve political goals in weaker or failed states and their presence in the current environment will be helpful in the future as well. Also, privatisation will bridge the military and civilian sector. He claims that in the future, there may be a chance of substituting a nation's defence by the market forces.

Another contemporary issue of the international politics is the arms race among the states. With the commercialization of war, violence becomes a private commodity which could be easily available in the global market. This phenomenon has some link with the emergence of private military and security companies. As the private military forces engage in the war, war becomes privatised. This is because they fight the war not to win or lose, but to earn more and more money. So in order to utilise more private forces, the system creates such a situation of insecurity in which they can use more private forces in the name of providing security. This is the game played by the business war mongers where the states, in order to suppress the prevailing violence, will hire more private forces. But in reality, it is not beneficial and healthy for the citizens and civilians, and instead it will create a more insecure environment.

The above subsection elucidated the other factors which motivate states to hire private forces apart from economic factor. It has shown that private forces became the key player in operating states' functions and thus states are willing to engage more with private forces to prevent crimes committed by local warlords, drug traffickers' and so on. The next section is the conclusion, which will highlight the importance of the chapter.

Conclusion

This chapter has argued that the economic factor is not only the prime motivational factor for states to hire private forces. There are other factors that influence

states and other international organisations like UN to contract private forces. Due to the increase in the number of crimes within the states, the state forces sometimes cannot handle the issues alone. Hence, states preferred to hire private forces to tackle crimes that prevail within the states, which are unable to be solved by the states' forces. Another important point highlighted in the chapter is regarding the role played by the private military forces both in weak and strong states, though the private forces produce different outcomes.

The chapter also talks about the commercialization of war. In today's time, war is fought by the private forces through contractors. As a result, it seems like violence is commodified and easily accessible in the global market. The outcomes will further lead to arms race among the war monger states because the private forces do not fight to win or lose wars but to earn more money. Instead of stopping wars, it will simmer wars in circular game, which will generate an insecure environment in the system.

Chapter 4

PMSCs: The Legal Aspects

Introduction

In the previous chapters, it has already been discussed how the role of contemporary mercenaries does play an important role in modern warfare. As far as modern warfare is concerned, it is assumed that the involvement of private military forces provides more security in both weak and strong states so as to stabilise volatile situations. Though there are flaws associated with private military forces, most states still prefer to hire them. Whatever the motivation may be, the powerful states no longer have interest to deploy its armies in another nation (Singer 2005), thus leading to an increase in the demand for private military forces to carry out modern military warfare. Hence, it is important to implement the legal status of private forces by International Law (IL). This chapter will analyse the existing legal status of PMSCs in the international system and its importance during a conflict. Highlighting the problems generated by private military forces, the chapter will further explore the implications such as the grave human rights violations, displacement of the people and how these issues affect the moral and ethics of the regular soldiers. The regulation of PMSCs is always problematic because of its ambiguous nature both in conflict and non-conflict areas. Lastly, the chapter will address the importance of the legal framework of PMSCs under International Law wherein private forces could wage war like regular soldiers without violating the laws of war.

Questions regarding the legal status

The way of conducting wars by the private forces remain a question mark in Contemporary International Relations. Amidst their reluctance to recognize the legal status of PMSCs by building an appropriate platform, most of the states are willing to hire the PMSCs to wage wars. PMCs operate their military services differently in different states.

The ‘Montreux Document’⁴ (Carmola 2013: 2) discusses different kinds of states where PMSCs do operate. The first one is territorial states where the PMSCs carry out their military activities highly such as Iraq and Afghanistan. The second one is contracting states where PMSCs are hired; simply these are the strong states who hire private forces. The third one is home states, a place where PMSCs are trained or built in. In a nutshell, it is important for private military forces to have their identity in fighting for wars and to follow the military code of conduct so that they do not violate the laws of war.

It has become a trend for the states to engage private forces to fight in war-prone areas. Nowadays states find it hard to handle an unstable area with state forces alone as the number of problems keeps spawning. Hence, they look out for private contractors to provide well-trained, skilled forces with sophisticated weapons to stabilise peace in those areas. However, the question lies in the provision of IHL and its applicability to the private forces during wars. The IHL categorizes military forces into two groups; combatants, and non-combatants (Cameron 2006: 73). The PMSCs do not belong to any of these two categories; however, some authors assume that the employees of the PMSCs are civilians, i.e. they are non-combatants. Some employees, on the other hand, would like to get combatant status. When it comes to the legal status of the private forces, it is presumed that mercenaries and private forces are more or less similar in nature, and therefore there is no separate legal framework for private forces. Such an assumption becomes problematic because the private forces and mercenaries are two different entities.

PMSCs perform a myriad of tasks irrespective of their ambiguous nature. The employees of the PMSCs provide their military services both in conflict as well as non-conflict areas. As their services are concerned, these employees can be divided into three groups. The first group is involved in the actual warfare by providing military assistance, the second helps in giving advice in military training and the third group delivers intelligence and provides logistics services to the military forces (Singer 2003).

⁴ It is an intergovernmental document that promotes IHL and Human Rights Law in armed conflicts where PMSCs are involved.

Furthermore, private forces work along with regular forces in humanitarian organizations, for example, by building camps for the displaced persons in Macedonia at the time of Kosovo conflict; or by their enormous assistance in Yugoslavia and Afghanistan (Cameron 2006: 576). In certain African countries, their tasks were to provide security by guarding industrial resources such as oil and diamonds. More examples include the governments of Angola and Sierra Leone who hired private forces from a private company called 'Executive Outcomes' (E.O) to fight against the rebels of the governments as the state forces were unable to handle and suppress the rebellions (Abrahamsen and Williams 2009).

The private forces involved in transferring weapons and sophisticated arms to the war mongering states carry out their tasks in three ways: 1) advisory function, 2) consulting and 3) illicit trafficking which includes the transfer of small arms, rifles, mortars, war vehicles by the PMSCs to other states (Brien 2009). The tasks of the private forces however, are multiplied in due course. The mushrooming of the PMSCs has assisted in arms proliferation, resulting in the simmering of wars especially in the fragile and weak states where violence and conflict remain a constant problem. Such an environment invites the establishment of military and security firms so that these weak states consistently depend on PMSCs for their security. However, the international community on the issue of the legal status of PMSCs has remained silent and no country has come forward to build the legal framework for the employees of the PMSCs or to clarify the doubts regarding the nature and behaviour of private forces.

There is an urgent need for IL to recognize the status of private forces. Cameroon (2007: 582) comes up with three essential reasons why private forces should be in the combatant groups: 1) to make it clear to the other side so as attacks could be done without violating laws of war, 2) to participate directly in wars as a regular soldier, and 3) to prosecute the private forces for participating in wars. As the private forces are not bound to any legal international mechanisms, it is very difficult to differentiate them from other groups during wars. Some authors opine that it would be difficult to assign combatant status to private forces, and as a result, it is difficult to distinguish private forces from the civilians by their adversaries. While the Third Geneva Convention

(1949) listed the services performed by private forces such as catering food for the armies and providing them shelters, it is hard for IHL to grant them the civilian status, as some of them continue to participate directly in wars. It also asserts that the corporate actors like employees of private military companies taking part in wars should meet the legal definition granted to mercenaries by the International Humanitarian Law (Fallah 2006: 601). Alexander Faite (2004) categorises PMSCs according to their services. One is those combats that fight in wars with weapons and the other is passive PMCs whose focus is training armies and managing other related issues.

The solutions of PMSCs still lie in the legal recognition by the international community. The role of employees of the private military firms has been gradually multiplied as the tasks of states keep increasing. But the lack of legal status of PMSCs restrains the nation states in openly accepting private forces. States fear coming forefront to accept the PMSCs legally and therefore granting of legal status by IL remains an important question.

In the above subtopic, it has been shown that the legitimacy of PMSCs has become fundamental for states. Yet, most of them are reluctant to accept private forces out of fear from international community. The number of private forces used by both weak and strong states keeps increasing day by day; however, the lack of a legal status of the private forces is a perpetual question. Hence, solving this problem is an urgent task of the states. The following section will discuss the problems faced by PMSCs in determining its definition.

Definitional problems of Mercenaries and PMSCs

It is important to understand the definitions of the terms mercenaries, and PMSCs. Although there is no accurate definition for either of them, the former has some clearer definitional aspects offered by international conventions and some regional organizations. However, they both are driven by similar objectives; waging war profit motive. The serious concern regarding the issue is whether they should be considered as synonymous (Fallah 2006: 599).

Here, the problem lies in the definition of mercenary as many authors try to differentiate them from contemporary private military forces. There are some definitions of mercenaries in certain contained in Article 75 of the Additional Protocol I, Organisation of African Unity Convention (OAU) and the Convention on the Elimination of Mercenarism in 1997. In the case of private military forces, there are no such. Both terms have some similarities as they do not have 'POW' or combatant status. Hence, Fallah (2006: 604) claims mercenaries as non-combatants, and that they should be under the protection of International Humanitarian Law and also under the Article 75 of the Additional Protocol I.

The mechanism of IHL is to bring justice in an armed conflict. However, there is no such provision under this law for the protection of the mercenaries or private military contractors. The Hague Conventions of 1907 and the four Geneva Conventions of 1949 do address some clauses related to as mercenaries and their implications, but it does not give an exact definition of the term. The Additional Protocol I of 1977 was the first humanitarian law instrument to tackle mercenary issues. Yet, the mercenaries do not receive the status of 'Prisoners of War' (POW) (Protocol 1, Article 47) till date.

There are differences in the provisions of the mercenaries between the OAU and the Protocol I as the former deals more with war crimes events. Mercenarism is not considered as an excellent profession, and but could be termed as a crime. As a result, Articles 3 and 7 of OAU refuse to consider mercenaries as combatants and POWs and instead the member states should harshly punish mercenaries such as with capital punishment for crimes they have committed. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries⁵ came into effect in 2001 defines mercenaries and their related activities and crimes committed during war. They are defined as those who actively participate in the war; well-trained either locally or abroad; motivated by financial gain; neither belonging to any party of the conflict; not linked to any state's official duty or to a member of the party of the native state⁶. Even

⁵ Drafted in 1989 by UN Convention

⁶ Definition given in the Article 47 of Protocol I Additional to the Geneva Conventions

the International Law Commission Draft Code has also adopted provisions for the mercenaries which partly resemble the UN Convention and OAU (1977).

The emergence of the modern private military forces has undoubtedly blurred the line between private forces and mercenaries, as both are profit oriented. The definition of mercenary provided by Article 47 of Geneva Convention (1997) has forbidden their use. As an impact of this, Percy (2012: 945) opines that private military forces were born due to the outlawing of mercenaries. Therefore, private military and security companies have tried not to fall within the definition of the mercenary (Barranca 2009). For Barranca, the term mercenaries are considered as prohibited and a disparaging term. However, PMSCs are more acceptable as private military firms, provide military and other related services, and avoid considering themselves as mercenaries. Nevertheless, the problem in defining private military firms remains unresolved. Though they are striving not to address themselves as mercenaries, the international community labels them as such. Here it could be said that not all corporate actors are mercenaries (Fallah 2006: 600) as there is quite a difference between the international humanitarian law and the mercenary conventions. Unlike the private military forces, mercenaries could be punished for their status of being a mercenary and other criminal activity during a war.

Cameroon (2006: 579) came up with the same definition as given by the OAU, Additional Protocol I, and UN Convention. It becomes a serious issue to define mercenaries, though they do not receive the status of combatant as well as POW, there is an exceptional provision of mercenaries under the international humanitarian laws. Since IHL determines whether an individual is mercenary or not, by building a competent tribunal, there is a probability of offering the POW status to the mercenary. Though, such an instance has never happened before.

There has arisen disagreement between International Humanitarian Law on the one side and the Geneva Convention and the Additional Protocol at the other end regarding whether to offer a mercenary, the status of the combatant, POW or not. The International Humanitarian Law leaves this to the state by giving it the options of what it wants to do with the mercenaries. According to Cameroon (2006: 577), it is better to

give status to the mercenaries or private forces otherwise it might generate the harsh consequences due to their brutal activities during wars. Furthermore, to punish them is a serious problem for the international community. For example, killing a combatant in the war by any party requires that the culprit be produced for trial, but such legal proceedings could not apply to mercenaries. In fact, they are acquitted from being punished as no laws could be applied to them. So, the dilemma is how to carry out the legal procedure of those prosecuted mercenaries. Hence, the problem in defining the mercenaries as well as private military forces will hamper both the parties in the war as it does not enable the identification of the real fighters in war.

In the above section, it has been clearly shown that there is no absolute definition for PMSCs in International Relations. As far as mercenaries are concerned, there are some international conventions which include mercenaries' clauses. However, mercenaries and PMSCs are two different entities and focus should be either to frame a separate definition of PMSCs or to include PMSCs in the mercenaries' clauses. Some authors are not ready to accept the latter as both the terms are different which began the problem of PMSCs in IR. The following subsection will analyse the problems, and the challenges in the regulations of PMSCs as opposed to the regular soldiers.

The following table no. 1 shows the debate on legalising PMSCs by various scholars

Debate on Legalising PMSCs	Scholars	Main Arguments
Those supporting	Eliot Cohen, David Shearer, Dough Brooks, Rita Abrahamsen and Michael C. Williams, Linsey Cameron	<ol style="list-style-type: none"> 1. Consider PMSCs as problem solver, will lessen violence in weaker or failed states. 2. Enable to stabilise volatile states like Sierra Leone and Nigeria. 3. Positive impacts on big countries like US in their foreign as well as national policies. 4. Regular forces along with private forces go hand in hand as states' forces cannot solve all problems.
Those opposing	Ken Silverstein, Musah and Fayemi	<ol style="list-style-type: none"> 1. Business and profit oriented. 2. Work for contractors not for the states. 3. Do not fight wars to win or lose but to fulfil the agenda of the contractors. 4. Increase of violence. 5. Do not have military code of conduct. 6. Violate the laws of war. 7. Worst case scenario in weaker states like Sierra Leone where

		valuable resources like oil or diamond are from the Mobile characters, not permanently confined in a single state.
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Table no. 2: Various international conventions on mercenaries

International Conventions on Mercenaries	Year	Key take away
The Hague Conventions V	1907	Implication of mercenaries activities in terms of neutrality
Article 47 of Protocol I (Additional to Geneva Convention of 12 August, 1949 and relating to the Protection of Victims of International Armed Conflicts)	1977	Definition and status of mercenaries
The UN International Convention against the Recruitment, Use, Financing, and Training of Mercenaries	1989	<ol style="list-style-type: none"> 1. Definitions of mercenaries 2. Determine whether they are applicable to armed conflict or any other situations 3. To fight against Mercenarism throughout the world

<p>OAU Convention for the Elimination of Mercenaries in Africa</p>	<p>1977</p>	<ol style="list-style-type: none"> 1. Article 2 and following consider mercenaries as an offence 2. To eliminate mercenaries from the African Continent, the scourge that mercenaries represents.
<p>United Nations Mercenaries Conventions</p>	<p>2001</p>	<p>Prohibits the recruitment, training, use, financing of mercenaries</p>

A brief overview of Problems and Challenges posed by PMSCs

The problems and difficulties of PMSCs can be addressed by the lack of proper legal legislation, implemented by international law both at the national and international level, which carry out the proceedings for crimes committed by the private forces. The functions of the states have been amplified in due course, generating more space for private forces to understand some of the activities which were traditionally performed by state forces. This filling of the vacuum by the private military firms naturally lead to the increased establishment of the private military and security industries, which finally led to the privatisation of the warfare. There have been many successful stories of using private contractors in the wars, for example, the victory of US in the Gulf War by using the private forces. Many factors facilitate the success story of private military and security companies during conflict. The private military companies have some advantages while deploying private forces over the regular forces because of their quick mobilizing capability, being skilled and well-trained forces with sophisticated weapons, and ability to fill the space left by the state forces when a particular state lacking a

national armies. However, there are lots of problems and challenges of using private forces, especially on the battlefield and regarding the civil-military relations, accountability, transparency, and human right violations.

Schreier and Caparini (2005: 79) outline the features of PMSCs, as being business oriented, controversial, involved in overt operations, and secretive of their norms as well as lacking of accountability. The problem of PMSCs lies in their financial gain motive, rigid nature of private contractors, and neglecting military tasks planned by regular soldiers. Military contractors are different from regular army, they operate separately outside the military command structure, for examples, they use the non-military vehicles and radios. This is another fundamental problem of PMSCs as the contractor personnel do not worry much about the security of the states as the regular forces do. In fact, PMSCs value the security of the client along with their profit interests. The authors illustrate the confusion brought by contractor personnel that makes it difficult to determine whether their actual tasks they are performing are civilian or military activities. The unresolved but accepted assumption of private contractors is that they are bound not by oath but by contract. They prefer self-regulation rather than following the code of conduct like the regular forces. As the contractor personnel does not possess any military code of conduct, and there is no formal rule for them to follow. This reshapes the civil-military relations, and affects the governance of the state. Another problem of PMSCs is regarding the accountability issue. Any activities performed by regular soldiers are accountable to the national government, unlike PMSCs as the norm that applies to any state cannot apply to the private contractors.

The regular soldiers focus more on safety for nation states and to protecting them from their adversaries, which make them the different from the private military forces. (Schreier and Caparini 2005: 30-31). For every military mission, there is a military chain of command to operate the mission effectively. The regular soldiers expect minimal damages of public property such as hospitals and national assets, as well as the minimum casualties of the civilian population. However, in the case of private military forces as there is no such military command for them. They are unlike the regular forces, they stay separately, they do not possess any military uniforms, and there is lack of

cooperation, they just update their news to their bosses, i.e. those private contractors who hired them. The situation is more complex when the private forces set up their military operation with local military units because the private forces do not possess the legal binding to go to war whereas the local military must. The commander of the military forces could not regulate the military mission properly if the private forces are involved. The lesser the number of civilians involved in the war, the closer of being the 'ideal battle space'. However, it is impossible to be the ideal battle space in the presence of private contractors. Another problem of the private forces is carrying out the agreements among the forces of the warring states. The private forces often end up disturbing such situations many a time during a conflict (Bryden and Caparini 2006).

Problem of accountability and transparency of the private forces in their regulations is another challenge. It is clear that private forces working under private companies, i.e. huge multinational corporations, are not confined in a single state. It is problematic for the nation states to pressurize and take actions against the PMSCs because they change the host states from time to time according to their needs. Hence, it is not necessary for private forces to inform and update their activities to the government of the host states.

Moreover, the government of a state safeguards the code of conduct of the military institutions. The state forces are accountable to the military commanders or head of in-charge, and those soldiers who break the laws and commit crime, are prosecuted and punished accordingly. However, it is not the case for private forces. The private forces do not have the legal status to carry out the military operation in the battlefield. Contractors do not have uniforms to wear in wars, and further there is lack of command and control structures which brings forth the transparency problem. Regular armies work under the supervision of commander, and function according to the direction given by their heads. The problem of the private forces is that they end up exploiting the economy, especially in weak states with poor governance, risking their 'sovereign' status.

There are still loopholes in the operation and regulation of the PMSCs. Holmqvist (2005: 25) discusses the issues that prevail both in the efficient as well as weak states. She considers four central problems of private security services in the efficient states: 1) the difficulty in launching clear mandates, 2) the issue of accountability, 3) failure to notice problems in controlling the market, 4) no cooperation between PMSCs and regular soldiers and the private actors themselves. In contrast, the problems in weak states are as follows: 1) the private forces give forged images which misrepresent the security in a short-term period, 2) unable to allocate security to populations, 3) successful in establishing legitimate institutions surpassing states. She also argues that most of the states seek private forces because of improper functioning of the public security forces. Another problem, according to her is the division between highly paid forces recruited from the west and cheaper forces hired from the local population due to the influx of PMSCs. Holmqvist calls the regulation of PMSCs 'mission failure' at times because of the inability to make it accountable and the failure to implement its policy.

It is a universally accepted notion that the state has the legitimate authority to use violence. However, with the emergence of PMSCs, the monopolistic use of force by the states has been transferred in the hands of the private military forces. The first thing which calls for concern is the legal issues. As PMSCs are not legally binding under any international law, their employees do not have any legal status to fight in wars. They are neither civilians nor combatants. Since the power has been transferred into the hands of private contractors, the private contractors might subjugate the democratic process of the state. A report released by DCAF in 2012 analyses the problems of PMSCs in their regulations and its impediments of transparency in the grey areas where the extra-legal (Avant 2005: 264) authority prevails.

In earlier days, like states, private forces were used to protect the assets and civilians from threats. But this trend has changed and the states have replaced the tasks of the private forces after the Westphalian treaty⁷ and states became the sole protector of

⁷ Peace treaty which was signed in 1648 after the thirty years of wars which established the idea of the sovereign state in the international system.

the citizens (Pavlovic and Vejnovic 2006: 20). Schreier and Caparini (2005: 5) state that the re-emergence of the privatisation of the forces in current international politics challenges the states' legitimate monopolistic use of force as this power has been transferred to the hands of private forces just like in the Pre-Westphalian era. Not only this, such a new trend in the international system brought changes in the military history such as privatisation of the warfare whose intention is mainly based on the commercial interest.

According to Chakrabarti (2009: 72), the emergence of the privatised security trend is because of a neo-liberal approach by the states to adopt the privatisation of security which again further leads to injustice and inequality in society. His argument is that the process of strengthening the state by hiring PMSCs leads to deteriorating the state itself by transferring the use of violence to the private forces. Citing the movie, '*Bloody Contractors*' as an example, Ben Venzke, the chief of Intel Centre opines that even in the film, it shows the notorious and dangerous nature of the PMSCs, and the private security personnel is seen as an immediate threat in today's world. The problem of private security personnel is their inability to be differentiated from combatants to non-combatants, a problem that will stay in the future as well. The report released by *Human Rights First* in 2008 clearly demonstrates how the public conceptualizes the standard of private security forces and the problem lies from the very definition itself.

Singer (2007: 6-9) in his *Foreign Policy Publication* re-examines the role and regulation of PMSCs in Iraq and how they create constant problems there. Contractors are very notorious for their aggressive behaviours in Iraq, and the Iraqi population considers them as outsiders in their country. The behaviour of private forces is very impulsive, and infuriates the local people. The private forces are not able to win the hearts of Iraqis but in contrast, the Iraqi assumes the private forces as their existential threat as it seems they represent the US and Israel forces. The US military forces and private forces are two entities that are present in Iraq, but locals are unable to differentiate between the two. Further, US military forces share single combat zone with the private forces, and despite this the private forces operate within their own rules, i.e.

to fulfil the agenda of their clients. This makes the US military forces worry about the consequences of the private forces.

Shearer (2015) comes up with the question of the moral judgment of the private forces in low-intensity conflict areas. Though privatisation of force is a new emerging trend, there is less discussion at the international as well as the national level to enforce it effectively. On the top of this, the policy makers always shy away to tackle and debate the issue. The PMSCs do not fall within the category of combatants, civilians or mercenaries and they do not have the legal recognition or any obligation to follow which makes difficult to prosecute them for their violations such as those of the laws of war (Khalidhass 2014: 6-11).

According to Dave Whyte (2003), the problem lies within the state itself. Sometimes the corporate sector and the states together generate large scale social harms. The states are unable to punish those private contractors who commit atrocities. Nonetheless, the real difficulty is how to punish these contractors and under what criteria is a serious issue for the states. However thinkers like Abraham Sen and Michael William (2009: 3), interpret the privatisation of security through the lens of a global institution which they call 'global security assemblages.' The authors give importance to private security and sovereign states equally, and try to form the structure of political power, authority and the operations of global capital. They give examples of the cases of diamond mining in Sierra Leone and oil extraction in Nigeria where the role of private military forces and their operation helped to boost the security of the nation states.

The importance and active participation of PMSCs indicate that they are here to stay. Many thinkers instead of focusing PMSCs through the lens of half empty glass, they have eventually started seeing it as an opportunity to stabilize security in those weaker and failed states if they are regulated properly. Singer (2003) argues that the private military companies need not belong to only private forces that take part in the conflict. He divides PMSCs into three 'business sectors': 1) those who furnishes 'direct tactical military assistance'; 2) those who advise and train the forces; 3) those who regulate the maintenance, logistics and intelligence services. Cameron (2006)

emphasises the importance of the qualification of those contractors to perform their tasks. Most of the time, PMSCs reflect negative images to the world community, which makes them criminals from their active roles in wars.

For Tilly (1975: 13-14), war making and state making are linked to each other. For him, states are often constructed by wars. Examples can be cited in Africa, Iraq, and Afghanistan. By taking Tilly as a reference, it can be concluded that the private military forces involved in civil wars and other low-intensity conflicts in the failed states will help to build new states. By looking at the ideational level of PMSCs, Tilly is right; however, when it questions the degree of violence generated by those contractors, there is no answer to that question. Linsey Cameron and Vincent Chetail (2013: 672-675) talk the disgraceful activity of mercenaries. According to authors, the private forces are motivated by private gain and do not have any emotional attachment to or interest in the well-being of the states. As a result, it creates problems like human rights violations such as rape.

Simon Chesterman and Chia Lehnardt (2007: 3) define PMSCs as private firms which can provide military services, train forces beyond their native states and advise them accordingly by using forces for more efficiency in conflict. Another problem of PMSCs given by Percy (2007: 53) is that they cannot compare with national military forces as the latter serve the states while the former is profit oriented. Further, it is very much difficult to calculate the wages of the private contractors.

Privatisation erodes the sovereignty of the nation-state. The private military contractors fight because they are handsomely paid (Gabriel 2005), but there is no accurate and ample evidence as the records of how much they spent on private contractors is off the books. Moreover, the private personnel neither understand why they are fighting, nor they have an emotional attachment to the people for whom they are fighting for as their jobs are just to fulfil the goal-directed by the companies. This process led to the subversion of democracy in a country like the US. However, the number of hired private military contractors employed has only been increasing because of mutual benefits between the PMSCs and the states from the spoils of war. Because of

high pay, more people join PMSCs and these companies force these men to fight in an unwinnable war. So the governments realize both the advantage and disadvantage of using PMSCs. These are the life-death issues.

The above subtopic has covered the problems and challenges faced by the PMSCs such as accountability issues, lack of legal framework which further hinders in their regulations. So, the next subtopic will discuss the impact of PMSCs as a result of above problems and challenges on states and international community and how it affects the ethics of the regular soldiers.

Implications of PMSCs

The whole process of PMSCs' regulation in any conflict remains in the midst of confusion. Singer (2004: 526), a political scientist states that the fate of the PMSCs in future warfare is unpredictable. The concern of PMSCs is not about the complete ban of private military forces but more so whether to legally prohibit or regulate them. Also, private forces lack legal status, and this ends up creating problems of transparency and accountability (Johnson 1999) in their operation in the battlefield. As they are profit oriented, they do not have any emotional attachment or enthusiasm for states they are fighting. As a result, they only see the efficiency of the war, and their goal is to accomplish the agenda of the contractors. Sometimes they do not even acknowledge where they are and for whom they are fighting the actual war, and it further leads to grave human rights violations. With the involvement of the private forces in the war, the contemporary warfare can be considered as privatized warfare. Drawing examples from instances such as Iraq war in 1991 as well as 2003, there is ample evidence of private forces participating in both wars which consisted of one private force for every ten soldiers in 2003, and 2008. Even in the Abu Ghraib incident, private forces were involved in torturing the prisoners (Newsinger 2015).

Authors such as Barranca (2009), McMahan (2011), and Rodin (2002), remark on the ethics of military forces, due to emergence of the PMSCs. There is the undermining of ethics due to the emergence of private forces. They state that the private

military forces do not have any emotional connection with the people whom they are fighting for, unlike the regular soldiers. As regular soldiers are concerned, they are loyal to their nation states, they have a moral code of conduct, have a high sense of patriotism, and they fight the just wars as they have the legitimacy to enforce violence authorised by the states. David J. Francis (1999) considers the job of PMSCs and their tasks as dirty jobs for committing organised crimes which were traditionally done by the states.

Another implication is regarding the ethics of regular soldiers. The emergence of private military and security companies may distort the very ethos of the regular soldiers. The military code of conduct (Isenberg 2009) directs the regular soldiers to behave in certain ways, both inside and outside the battlefield. Even during the war, clarity should be maintained between the combatants and non-combatants that enable to protect the civilians from being hurt during the war. On the other hand, the regular soldiers have the emotional attachment, unlike the private forces. The private forces are notorious for their wild, fierce, beastly behaviours towards the civilians.

Percy (2007: 45-53) discusses some moral problems of hired forces as they work only for money and they do not have any genuine feelings towards its nation-states. There is no such thing called 'love for country' in their attitudes. Also, the norm against the mercenaries which was prevailing in ancient times also could be cited as an example of how the nation-states preferred citizen armies in late eighteenth century and beginning of the nineteenth century from that of mercenaries by then kings and rulers. She refers the citizen armies as the only appropriate forces to serve the nation states.

Chakrabarti (2009: 42) illustrates how the local population of Iraq is unable to differentiate between the foreign armies, the international private contractors and the PMSCs who occupy army and foreign private contractors (Bjork and Jones 2005: 778-779). He sometimes feels that states that initiate privatized security to increase its power end up in weakening themselves. They hand over the monopolistic use of force to the private forces to strengthen the states by ensuring regular function, stabilized society and even to ensure for the survival of the states. The neoliberal institution could explain privatized security in a very different way. Chwastiak (2007: 7) agrees that due to

neoliberal construct, the privatisation of security could prevail in the form of commodified security which is readily available in the market by transferring the social control of force from the hands of the states into the private forces. Under this new institution, the states are no longer the sole player in policing. The privatisation of security has become a gradual process in contemporary society.

After the end of the Cold War, the security arena has broadened as the numbers of threats coming from terrorism and transnational crimes (Krahmann 2003: 10) increased. For Rutherford (2005) there is still need for the mercenaries in today's world because the neoliberal institution is willing to spread markets and they do not have any interest in the territorial expansion anymore. In a nutshell, privatisation of war and privatisation of security are interconnected, and the former is the outcome of the latter. However, Alexandre Faite (2004: 10) claims that states who hire private forces should be responsible for crimes they commit and the international law they violate.

McMahan (2004: 693) categorizes two different sets of combatants, just and unjust combatants. Just combatants are those who struggle in justified war and unjust combatants are those who fight as a result of an unjust cause. Both the combatants have the right to fight in war unless and until they violate the laws of war. But the question here is how the private forces fit in this lacuna. They are neither just nor unjust combatants. Also, since they violate the laws of war, McMahan's just and unjust combatant theory is problematic when it comes to the conduct of the PMSCs. There are three principles of the traditional war theory (Walzer 1977). Out of the three principles, one is more focused on the activities of the combatants who could kill and attack the adversary in the war which is again impossible in the case of non-combatants.

Jordi Palou-Loverdos and Leticia (2011: 25) keep an eye on the crimes committed by the private forces such as human rights violation, drug trafficking, and child labour. By clubbing the views of various commentators, the author categorises activities performed by PMSCs related to violation of human rights in three ways: 1) activities on commercial security, phone tapping, through mail; 2) attacks on the civilian population by killing, murdering, torture, detentions and the exercising the illegal

weapons; 3) violation of the rights of local people and exploitation of their natural resources.

The privatisation of conflict could be the outgrowth of PMSCs. This trend has been there since the 19th century when the kings and the emperor in order to expand their territory, conquered it through hired forces. Based on the feudal system of the time, the number of the standing armies was restricted (Smith 2002/03: 115).

Regarding the civil-military relations, PMSCs have a significant impact because of their ambiguous legal status. Private forces are neither in the category of civilian nor military during a war, and the gap between the civil and military relations has widened with the elimination of conscription (Schreier and Caparini 2005: 61). The PMSCs will produce imbalances in the governance which will later hinder the civil-military relations in the society. The purpose of the PMSCs and their effectiveness in war differs in different states. For example, in a stable democratic country, the system is at risk, and again there is a clash between public policing and the PMSCs. However, in a developing country, PMSCs dominate and subjugates the power of the military forces. Another problem regarding the civil-military relations highlights how the privatisation of security will poison society, and the introduction of the private forces will affect the ethics of regular and professional forces and their status, roles and resources.

Sometimes PMSCs pose a high level of threat to society where the environment of the states is already on the brink of deterioration, for example, due to internal violence and disagreements, the creating of tension between the local government and the military. The presence of PMSCs in those particular regions will produce a serious issue which will overburden the States. Singer (2005) classifies different kinds of companies and those among them who provide military support are less risky. But at the same time, the consultant sector and the provider will pose a threat to the institution as it maintains the balance between the state and military.

With the booming of the PMSCs in Contemporary International Relations, states have become less responsible for waging modern war. War has more to do with private

contractors, and the motivation of earning more profits. Because of the privatisation of the war, the political leaders of the states find it very handy to wage war as they don't need to take the permission from the government. Hence, there is a gradual shift in the civil-military relation. It seems as if the PMSCs have replaced and indirectly control foreign policy (Tonkin 2011: 23). Examples are those weak states in African countries where the governments sought help from PMSCs to fight against certain insurgent groups. Also, the states tend to hire private forces to solve and stabilize internal civilian conflict states so that states will be able to maintain its political system by preventing the civilians from being controlled by the armed forces. But at the same time, there is an equal chance of negative impacts in the weak states, once the capability of the private military companies excels that of the states.

Another problem is regarding the legitimacy of privatized security. As PMSCs are independent of nation-states, their roles and ways of conducting war are also different from that of a regular soldier. PMSCs are more or less commercializing their military capability as they are business-oriented firms. However, the private forces do play a significant role in both weak and strong states to stabilizing the political system, though legitimacy is still an issue for both.

D. Lilly (2000: 1) brings up a new concept which he terms 'the privatisation of peacekeeping'. Here he means the hiring of the private forces by nation-states to settle conflict instead of deploying state forces, which will enhance the promotion of the peaceful settlement in those conflicting zones. Nowadays most states reluctantly use its military forces to fight for or against another country to wage war as the governments do not want to take the risk. Also, private forces are very efficient and quick to mobilize over the state forces. The gradual booming of PMSCs and their involvement in the war gradually leads to the privatisation of the warfare. War is seen as a private commodity for the profiteers and to fulfil the interest of the contractors (Jshear 2011).

The report released by Security Management Initiative (SMI) (2009) briefly discusses the emerging role of the PMSCs hired by the actors who work for the promotion of the humanitarian security by giving three probable factors, the increased number of the

humanitarian insecurity, the booming of the firms especially PMSCs, and the broadening of the scope of the humanitarian sector as the private military companies are more or less becoming professional. Though the role of PMSCs in the humanitarian sector has been gradually booming, there is lots of risk in hiring PMSCs in humanitarian sector due to a lack of physical, financial and reputations mechanisms. It is well known that there is a lack of global institutions to enhance security firms at the national as well as international level, so it is a difficult job to ensure security tasks taken up by PMSCs as many flaws already exist regarding the PMSCs in global politics. This further leads to human rights violations by private forces while on the battlefield as they do not follow any strict military code of conduct like a regular force. Hence, quite often they break the laws of war which put them in the zone of confusion thus impeding the process of distinguishing them as combatants or non-combatants.

There is still a problem in the regulation of PMSCs in war. Many attempts have been made to channelize their regulations by the international organizations. For example, the Swiss Government initiated a platform for the private forces, their military code of conduct, military enforcement and the implementation of the private firms including those PMSCs. However, everything is under the process of development and it will take time to make it effective.

The privatisation of security affects the affairs of the state. Many academicians see the prominent role of the private forces as a threat to the sovereign states as the activities of the states are now undertaken by the private companies and private military firms. The most important pillar of the state is good laws and effective armies for the security of the defense (Gulam 2002: 24).

The description and the details of the private forces have been discussed already in the above chapters. Also, it is true that unlike the regular soldier, it is difficult to approve and accept the regulation of private forces by the world community based on their roles in the wars as well as their ambiguous nature. They do not have any code of conduct for *Jus ad bellum* and *Jus in bello*. There is no guarantee for defending the state

and they wage war for profit. In a nutshell, they kill people in wars for money, and therefore commercialize security in the open markets.

Another crucial aspect when it comes to the activities of the private forces is regarding the human rights violations. Even though the private forces commit crimes such as killing people, torturing civilians, raping women, and other violations of human rights, there is no law at the national or international level to detain and punish them. Once they get imprisoned, they are acquitted immediately as there is no law to prosecute them. This produces a negative impact on the ethics of the national or state armies, and may augment the trend of black markets as there is no transparency, and accountability, and no good relations between the host states and PMSCs. The PMSCs keep on changing their host states accordingly, but the problem again here is that instead of stopping the war, the private forces through PMSCs simmer the war because they are more profit oriented as war is inevitable in today's world and more war is expected to be fought continuously.

The emergence of PMSCs could lead to an arms race, the private forces are well armed in war and if the other side is not compatible with the private forces regarding the weapons, the other side is forced to go and acquire more sophisticated weapons like the private contractors. Again it may boost the market of the security which further enhances the market of the PMSCs. The broadening of the market and the increasing demand for weapons in the war-prone regions will increase more violence in that specific region which means more violation of the human rights.

The private military companies are not problem creators but a solution to those states that lack the resources to manage governance. The use of violence to end the conflict or wars and to bring both sides on the negotiation tables, is sometimes much required. Hence, PMSCs can conduct such helpful activities on both sides of the states. Also, it is assumed that PMSCs could influence the building of state institutions as they prefer more private forces than regular forces as the latter can have political links which may be dangerous, therefore rulers choose the private forces to build states (Shearer 2007).

Another implication could be traced back to the period after the end of Cold War period. The arms race has increased in the global market as a result of loosening the political control and the inability to prevent the small wars that broke out in most of the small states. A different variety of the sophisticated weapons such as fighter jets, machine guns, and helicopters, are available. PMSCs could access those weapons that are readily available in the market (Mathieu and Dearden 2006).

The activities of PMSCs may be hindered in two ways which further has a negative impact during the course of the conflict. The first highlights the importance of using force, and it becomes the important tool to stop war. Second is regarding the temporary winning wars by any chance and whereby the weak states started believing in PMSCs and are willing to depend on them.

There is exclusion-inclusion as the International Humanitarian Law cannot be applied to everyone. Earlier it was savages who were not allowed to follow the laws of war, and nowadays too much emphasis is given to the states that the private forces that are not part of them and do not have the chance for the application of the International Humanitarian Laws.

Conclusion

This chapter has discussed the importance of having the legal status to regulate the private military forces legally in the battlefield. It has shown that the private military forces instead of stopping wars, they prolong the violence. Another significant point is that as the private forces do not have proper a legal framework, they are not punished for crimes they committed during wars. The international and domestic laws do not apply to private forces and they keep changing their clients from time to time, as their motive is to earn more and more money.

The chapter also listed some problems that have to do with private military forces in wars. First and foremost is the definitional problem, where no international convention or international organization defines the term PMSCs. Another problem is regarding the transparency and accountability of the private military and security forces

in their overt operations which further leads to the violation of human rights, rape, human trafficking, and child labour. Such challenges may further deteriorate the sovereignty of the state. Even the states are not willing to make PMSCs more accountable and transparent.

The chapter concludes by saying that future war seems to be wars for the rich and strong countries to achieve their political goals. Hence, the main aim of the PMSCs is to continue the war, to earn more and more profits so that the contractors could run their business in the long term.

Chapter 5

Conclusion

This chapter summarizes the answers to the questions posed in the previous chapters and will explain the whole process of the privatisation of security from Pre-Westphalian states to Westphalian states, the role of Private Military and Security Companies in Contemporary International Relations and the problems of legal status. Finally this chapter will revisit the hypotheses that have been proposed in the study and test whether or not they are verified.

The privatisation of security has been studied by discussing three variables: motivations, legality and implications of private military and security companies in the last three chapters. Motivations refer to factors that drive states to hire private military forces. Economic motivation is considered the prime factor of the states in hiring PMFs. Also, the main aim of the private forces is to earn more and more profit as they are business based giant multinational corporations. Yet, it could be argued that there are some factors other than financial motivation that make states seek private military forces. Private military forces have been used with the hope of stopping war and to build peace by lessening the violence, but the result was the opposite and did not yield the desired outcomes. As PMCs tend towards profit earning and business based multinational companies, the states even privatised war and security became a commodity in the open global market. Hence instead of being a solution, the booming of private military companies actually creates more problems which further lead to the simmering of war in the international system.

As far as legitimacy is concerned, private military forces do not have any legal status to act or behave like regular soldiers especially during the course of war. As a result, private military forces often violate the laws of war as they do not have any military code of conduct; there is no command from the top except to follow the whims of the contractors. On top of this, states, international organisation, International Law, or International Humanitarian Laws are not ready to implement the regulatory framework

of the private military forces that would identify them by providing legal status to wage war like a regular soldier. Even the domestic laws deny the execution of the legal framework of the PMSCs. Because of the mobile character of the private military forces, they are not permanently confined in a single state and therefore it is difficult for states to assign its military code of conduct to the PMSCs. No state is willing to come forward to legalise the PMSCs because of the above reasons and also due to fear from the international community.

The last variable is the implications of the PMSCs. In this section, the study has examined in two aspects; firstly is the impact on the ethics of the soldiers, and secondly is the violation of human rights of civilian populations. As the private military forces do not have any emotional attachment to the people they are fighting for, they hardly bother about their wrongful activities, brutal behaviour, and ill-treatment towards civilians as their focus is on the efficiency of the war, not stopping the war.

The study contains five chapters. The first chapter discussed the main purpose of the study by reviewing the available literature, finding out the gap in the existing literature and its contribution in the academic circle. This chapter highlighted the relevancy of the study and its importance in Contemporary International Relations. The chapter explained the privatisation of security through the lens of mercenaries and modern private military forces.

The second chapter discussed the importance of PMSCs and its contribution in Contemporary International Relations. This chapter highlighted the significance of mercenaries in ancient times serving kings and lords in building their strong armies. In today's time, mercenaries are replaced by modern private forces and they have been used by states in waging wars. Private forces are still used in the twenty-first century, though their monopolistic use of forces has been questioned by various authors, war strategists and so on. This chapter has argued that the task of private forces is not confined only in battlefields, they performed in non-conflict zones such as assisting military training, intelligence sector, and logistic supports and so on. The chapter has concluded by saying that the role of PMSCs is significant and they became the key

players in modern military warfare though they do not have the legal status to wage war legally.

The third chapter discussed the various factors that motivate states to hire private forces. Though economic motivation is the prime factor, there are other influential factors such as emergence of globalisation, privatisation and liberalization that fuel the states to hire private forces in fulfilling their increasing demands regarding the security within the states. States fight low-intensity wars in today's time and they use private forces in these wars. The chapter also discussed the role of private forces in both weak and strong states. The effectiveness of PMSCs in both states generated different outcomes. Hence, this chapter has concluded by saying that the motivation of weak states in hiring private forces differs from that of strong states. As the number of crimes within states has been increased, state forces cannot alone handle the issues. Therefore, states started hiring private forces to tackle the problems which are unable to do so by the state forces. This chapter has argued that privatisation of security leads to privatisation of war. As a result, it triggers arms race in the international system as the private forces fight an unwinnable war which prolongs the violence.

The fourth chapter discussed the question of legal status of PMSCs, problems and their challenges in the Contemporary International Relations. Though, private forces do not have the legal status, states still preferred to hire them in waging wars. The private forces enjoy the impunity because the domestic and international laws can not apply on them. This chapter argued that despite its flaws, private military forces are going to stay, and future warfare seems to be fought with private forces, hired by the rich countries, war monger states and private contractors to run their business in longer term. Hence, the emergence of PMSCs instead of stopping wars, it helps to simmer the wars.

Learning from History

The historical introspection of private military forces clearly indicates that private forces have been used in fighting wars since ancient times and they have become the hallmark for contemporary warfare. A more interesting concern is how they have

been perceived by the world community. Some scholars claim that mercenaries and private military forces resemble each other; however, others claim that they are totally different. Mercenaries fought wars for kings and lords to defend from their adversaries, but there is no such thing in the case of private military forces. They fight for no one except to achieve the goals of the private contractors. Looking at the efficiency of the war, they are not bothered as to who wins but rather for their own profit. The important issue for an academic purpose is to find out the alternatives to how the private forces could operate legally in the international system in today's world.

Kings and Lords in ancient times used mercenaries to fight against the enemy or to expand their territories. Rulers were quite satisfied with the efficiency and effectiveness of the mercenaries in those days. The mercenaries enjoyed the direct control of force in war rather than the rulers. However with the emergence of the nation states and the idea of sovereignty after the Westphalian Peace Treaty 1648, the trend of using mercenaries had reduced. Also anti-mercenary laws were passed by some states to outlaw the mercenaries from the system. However, the lesson which can be learned from history is that though mercenaries have been outlawed, most of the states still used them to fight war along with the state armies. The trend of using mercenaries is still continuing in contemporary military warfare but in a newly incarnated form known as PMSCs. The debate of mercenary and PMSCs has become an open-ended topic among academic circles. Unlike mercenaries, no state has come up with the decision of completely banning the regulation of the PMSCs. However, the suggestion is either to prohibit or legally regulate them to behave like regular soldiers in waging war. As war is unavoidable in society and the private military forces are likely to stay, it would be better to legalise them so that further problems and harsh consequences could be prevented.

PMSCs: Way Ahead

The current ambiguous nature of PMSCs makes it difficult to predict the nature of warfare in the future. Perhaps, the number of private military forces has been increasing day by day as the states demand and seek more help from the private military

firms not only for waging wars but to serve in other departments like logistics, assistance in training and intelligence agencies and so on. States do not want to deploy their military forces abroad to fight wars. Meanwhile, the concern of the international community is on the regulation of the PMSCs' employees. As PMSCs do not possess any standard legal status, no domestic laws apply to them. They are set free from being punished for the crimes committed in the battlefield. But the question here is that crimes like human rights violations, child labour, rape, human trafficking and so on are also committed by the regular military forces, so the world community needs to inspect both sets of forces carefully. Crimes committed by the regular soldiers are less of a concern to the states and the focus is more on the PMSCs.

There are many factors that motivate states to go and hire PMSCs. One of the important factors is the financial motivation. States have a large responsibility for deploying their national forces but not for private forces. Hence, states hire private forces as they enjoy the impunity. For them, there is no winning or losing war, just fulfilling the agenda of the contractors. Due to this, there is no hope for stopping the ongoing wars. PMSCs are hired by the business community who commercialize security and sell in the market. They will create more violence and will continue to be hired by the other contractors once they are done with their contracts. The actual operation of the PMSCs is impossible without the consent of the states. Here again the states play a big role behind the activities of PMSCs to carry out the overt operations in war torn areas. Not only has this, PMSCs functioned differently in different states, for example in weaker vs. strong states. However, both governments want PMSCs involved in their affairs.

The emergence of the Private Military and Security Companies has transformed the nature of the warfare. Both the state and private military forces are taking part in modern warfare, sometimes termed as '*New War*' by Kaldor. Hence to predict future warfare is still uncertain and remains a mystery regardless of all these issues. Thus, the role of PMSCs is here to stay in international politics, and as such they have become an important player of modern warfare.

Annexure- I

Tasks performed by select PMSCs in various countries.

PMSCs and host countries	States where PMSCs were employed	Tasks	Years
Executive Outcomes (U.K)	Angola	Logistical Support	1993
Executive Outcomes (U.K)	Angola	Logistic Support, Armed Operational Support	1994
Executive Outcomes (U.K)	Sierra Leone	Armed Operational Support	1996
Sandline International (U.K)	Papua New Guinea	Armed Operational Support	1997
Sandline International (U.K)	Sierra Leone	Armed Operational Support	1998
Blackwater/XE Services/Academi (US)	Liberia	Armed Operational Support	2003
Blackwater/XE Services/Academi (US)	Iraq	Armed Operational Support, Logistical Support, Military Training, Security Management	2007
MPRI	Croatia	Military Training	1995

MPRI	Bosnia	Military Training	1996
MPRI	Equatorial Guinea	Intelligence and Surveillance	1998
MPRI	Colombia	Military Training	1999
Saracen (UN)	Somalia	Military Training	2010, 2011
Lifeguard and DSL (UN)	Sierra Leone	Relief Operations, Tactical Intelligence, Transportation	1998

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