

The Effective and Influential Role of Military Companies' Private Security and Its Role in International Relations

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Abstract

Private military and security companies are now an integral part of modern warfare. These are entities that are created in the form of commercial companies that seek to make a profit in exchange for providing services in the military and security field to countries that request those services, which has made them one of the most important actors in the international relations process. One of the most important risks to international human law is private military and security companies that take advantage of their "bad" reputation in a fragmented market. They are increasingly hired by countries to work in areas experiencing armed conflict, and are becoming even more attractive because their members work outside the country. The official regular forces of states, and therefore it is not easy to hold them responsible for the violations they commit. However, its presence still raises controversy, and its participation as a private party in the conflict between states is not without raising questions about this issue and the legal aspect of this particular issue.

Keywords: *Private security companies, military companies, international humanitarian law, mercenaries, the effective role of private security companies.*

Introduction

The recent increase in the use of the services of these companies, especially in the war on Afghanistan and the war on Iraq, has sparked more legal controversy over the nature of their activity, which at the beginning of its appearance was linked to security services only, such as guarding embassies and diplomats and providing advisory services. Then it developed to become more comprehensive and multitasking. They are security and military missions, and countries try to hide what can be hidden from them in order to resolve their differences in a secret manner that may often be illegal without provoking their internal public opinion. This is done by reducing the official number of their dead regular and international soldiers. The public opinion is not to engage in the issues of finding a legal cover for their military actions in a country in which they have special interests, which were previously raised if the matter came to military intervention or otherwise.

International humanitarian law, which has regulated relations between states during armed conflicts and for which the activity of separate groups was one of the obstacles to its application until recently, now faces a more complex problem. The issue concerns how to deal with these companies in terms of their legal description, the legal obstacles related to prosecution, trial and compensation for victims, and the question of whether their increasing growth is evidence of the emergence of a new category of military personnel who legitimately operate outside the traditional rules of international humanitarian law. The international community has tried to answer some of these problems, and they have been addressed through repeated efforts made by the International Committee of the Red Cross, as the primary guardian of international humanitarian law, and by a group of countries with a common interest in this issue and in maintaining international peace and security.

The importance of studying

The study addresses the phenomenon of these companies entering the system of relations between countries, and will contribute to enrich information related to the issue of companies concerned with military and security affairs in terms of their role and development. Added to this is further importance at the level of identifying the most prominent factors and characteristics that increase the motivation to

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advance the role of these parties concerned with the security issue with its military, economic and military implications.

Study problem

In order to achieve financial profit, military and security companies undertake a set of tasks and roles inside and outside the borders of the state. These tasks and roles are established and issued in accordance with the state's legislation. They include logistical support for the regular armies of states, as well as participation in maintaining security and public order in the stages following armed conflicts or the fall of regimes. Additionally, these companies may participate in directing armed conflicts alongside countries whose regular forces suffer from weakness and ineffective performance. Through the above, we can raise the following problem: What are private military and security companies? What are the reasons and repercussions of her appearance on the international stage? What roles do they play in the security industry? We will try to answer all these questions and others through this research.

Study questions

- 1- What are private military and security companies?
- 2- What role do these companies play as an international actor?
- 3- What is the legal status of its employees under international law?

Objectives of the study:

The study seeks to achieve the following objectives:

- 1- Explaining what is meant by military and security companies.
- 2- Recognizing the role played by these companies as an international actor.
- 3- Clarifying the legal status of employees of private military companies under international law.

Research Methodology

The study followed the descriptive analytical approach, and through this approach the focus is on the core of the study by collecting facts and analyzing the factors in a way that accurately describes them and investigates their manifestations to come up with results that are relevant to the subject of the study by linking and interpreting the data.

Research Plan

The first section: the nature of private military companies and the legal status of their employees

The first subsection: Definition of private military and security companies

The second subsection: the emergence and development of private military companies

The third subsection: the legal status of its employees under international law

The second section/the tasks assigned to private military companies and the legal efforts regarding them

The first subsection: the roles and tasks assigned to private military and security companies

The second subsection: legal efforts regarding private military companies

The first Section: The nature of private military companies and the legal status of their employees

Introduction and division

The noticeable and actual emergence of private military and security companies occurred at the end of the Cold War and the changing international landscape. These companies have become important actors in international relations, surpassing states and international organizations. Many countries and international organizations have sought to utilize the military and security services provided by these companies, including the United Nations.

Perhaps what has contributed to the rapid growth of these companies is the change in the international landscape, as there has been an urgent need for security and defense, especially in light of the spread of international terrorism and transnational crimes. This has led to a shift in the traditional roles of states, including the monopoly of the use of force and coercion. In fact, many regular armies are no longer capable of waging certain wars without resorting to the services provided by these companies. The emergence of private military and security companies has not been welcomed and embraced by all international jurisprudence. A significant portion of the latter strongly opposes the emergence and activities of this type of companies, as it would lead to the abandonment of the state's traditional functions on one hand, and on the other hand, it would contribute to the privatization of wars and security, with negative effects on the reality of international relations and international law, especially in the field of human rights.

Accordingly, the research is divided into three topics as follows:

The first requirement/definition of private military and security companies

The second requirement: the emergence and development of private military companies

The third requirement: the legal status of its employees under international law.

The first subsection: Definition of private military and security companies

There are varying opinions on private military and security companies due to the increased interest of countries and international organizations in contracting with them for their services in exchange for payment. Private military and security companies are privately owned entities that provide military services to states, international organizations, and their affiliated entities. These companies specialize in providing combat forces, protection, and other related services. They typically consist of highly trained soldiers equipped with offensive and defensive combat equipment. During the US intervention in Iraq and Afghanistan, private security and military contractors made up 52% of the workforce. These private security and military organizations are profit-driven entities with specific purposes and objectives, differing in their organizational structure and military command from regular armed forces. They also differ in their administrative systems. These companies follow specific methods that have been developed over years of accumulated experience. Therefore, several international agreements have attempted to define private military companies and establish their methods and practices. This issue has been addressed in periodic reports by the United Nations Special Rapporteur, focusing on the study of the use of mercenaries as a means of violating human rights and obstructing the exercise of the right of peoples to self-determination.

The Special Rapporteur, Mr. Alexander Nikitin, defined them in the aforementioned Working Group report, after acknowledging the difficulty of accessing them, as companies that provide security assistance, training, supply, and advisory services of all kinds, starting with unarmed logistical support and security assistance. Armed security guard services extend to services related to defensive or offensive military or security activities, especially in areas of armed conflict or post-conflicts.

Opinions differed about the nature of these companies, their definition, and the terminology used for that, between those who said they were recruitment companies, those who said they were mercenary rental companies, and those who said they were mercenary companies and other names such as corporate contractors and civil contracting companies.

These companies represent specialized commercial companies characterized by their own organizational structure derived from their registration, the motive of which is mainly to achieve financial profit. Some also defined it as those armies composed of professional soldiers who offer their services to a foreign party in exchange for money.

Others have defined them as those organizations whose services go beyond merely passive assistance to parties to the conflict, as these companies provide the training and equipment necessary to develop the military capabilities of their clients and provide them with the strategic and information advantage necessary to suppress their opponents, or play an active role alongside the clients' forces as a force multiplier by deploying their own forces in the battlefield.

They are also known as commercial companies that provide their services to the military and security sectors outside the borders of the country of origin with the aim of achieving financial profit. The international document known as the Montreux Document, which was drafted in cooperation between the Swiss government and the International Committee of the Red Cross, focused on these companies. The document stressed its commercial nature, regardless of the capacity in which it presents itself. I also listed some of the jobs they do in particular.

In general, there is currently no agreed upon definition of the term private military company, which has led to a diversity of jurisprudence in this field. In addition to the above, we can also refer to the opinion of the jurist Singer, who was the first to write a special book containing a comprehensive analysis that dealt with military companies and their definition. By distinguishing them through the services they provide, they are divided into three groups: military institutions, advisory institutions, and military support institutions. Cockayne also defined them comprehensively as commercial enterprises providing security services, and used both Avant and Limqvist

The private security company term

It is noted that most definitions focused on describing the “paid” military company, and the least focused on giving the description of mercenaries to its members. This trend was supported by its inclusion in the work of the Special Rapporteur to study the work of mercenaries, who considered it a contemporary form of mercenary work, which represents a challenge to international law. Humanitarian activities will be difficult to follow, which is carried out according to the following methods:

- Training its employees to deal with the highest levels of danger, which generates huge sums of money for it.
- Using websites to promote their services and spread the culture of violence and wars.
- Paying large sums of money or using any means to obtain intelligence information
- Training on the use of weapons without taking into account any legal or regulatory considerations
- Working without respecting the laws of the country in which they work, such as detaining citizens and erecting barriers.
- Establishing organized crime gangs that trade in drugs, people, and national monuments.
- Paying exorbitant salaries to its employees to entice them to stay at work.

Finally, we can adopt the definition issued by the Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Obstructing the Exercise of the Right of Peoples to Self-Determination. This definition was presented by Rapporteur Jose Luis to the Human Rights Council during the fifteenth session. According to the definition, a private military company is described as a company with a legal personality. The provision, in exchange for financial services, of military or security services provided by natural and legal persons, i.e. specialized military services related to military action, including strategic planning, intelligence, investigations, land, sea and air reconnaissance operations, aviation operations of any kind, with drone or unmanned aircraft, and surveillance. Via satellite. Any type of knowledge transfer through military applications, provision of material and technical support to the armed forces and other activities.

The seriousness of these acts prompted the international community to seek to legalize and criminalize this phenomenon, and this began with an attempt to clarify the correct legal status of those working in it under international humanitarian law.

The second subsection: the emergence and development of private military companies

Military mercenaryism is an ancient phenomenon that has its roots in the depths of history, known to various past and subsequent eras and peoples, where empires and countries used to employ fighters who did not have their nationality to participate in wars in exchange for financial compensation. Starting from the ancient era, the Romans exploited fighters from other peoples they occupied to participate in wars and expand the geographical area of the empire, and they passed through the Middle Ages in the Hundred Years' War, for example, between France and England, where they resorted to recruiting mercenaries from other peoples, especially by the English. Who were resistant to subordination to the kings of France. In the years (1337-1453), the Italian states also knew a new and organized form of mercenaries called "Les condolieri", where relations with the state were carried out through legal contracts, with a budget allocated to recruiting and equipping men to fight.

Until the modern era, "for example, the guard working for the Pope in the Vatican State was a battalion of Swiss mercenaries who were appointed by the Church in 1506 AD to protect the Pope."

The birth of colonial empires, especially the British Empire, also played a major role in the emergence of private companies, as the famous English East India Company was founded in 1601 and obtained from Queen Elizabeth I a monopoly on trade in the Indian Ocean for fifteen years, and after eight years indefinitely.

Western colonization of the countries of the Arab and Islamic world in Africa and Asia has left behind a hateful phenomenon called (mercenaries). They are groups of retired western soldiers who sell their military services to puppet governments or heads of state. These governments often came to power through the directives of military coups and without the desire of their people. It has become increasingly common to see rulers from third world countries being guarded by foreign European mercenaries. Additionally, dictatorial governments may employ foreign agents and mercenaries to forcefully protect themselves from their own people.

What helped spread the services of these mercenaries in the last quarter of the last century was the conflict between international powers over the wealth of the Islamic world and Africa, and the absence of the United Nations and its inability to play its role in preserving its wealth. International peace and security. The first company providing services in this direction was founded by a former member of the British Special Forces (Jim Johnson). His clients were initially international political and business figures, and the work was limited to providing protection and training private guards. Competition between private companies has revitalized this profession. The work of these companies quickly moved from protection and private security missions to participation in conflicts and wars such as Angola and Zaire. Then the idea moved to America and they began to establish private security companies, the most important of which was KBR, which has been owned by Halliburton since 1962, but it diversified its activities. Since 1980, this

market has developed through the establishment of relationships with British and American intelligence services and the US Department of Defense.

The main players in this market are the major American companies KBR, Blackwater, and Dean Corp. They are able to provide workers on the front and back lines, and the US Army is considered the most important customer in the world. In the Second Gulf War, logistics companies made large sums of money due to their employment. The equivalent of one percent of the American military force, which they receive daily, is the budget of the American army in Iraq, amounting to 30 billion dollars annually, where they occupy (10%) of the American military force. KBR is considered the most important among the logistics companies in Iraq, as it employs about 50,000 mercenaries in the country, some of whom are armed and fighting, but the majority of them are in the field of services, such as cooks, drivers, mechanics, and food service. This company has a contract with the Pentagon, which is worth eleven billion dollars.

This phenomenon continued to develop until the contemporary era, as hired fighters were recruited during the First and Second World Wars to liberate European countries from Nazi occupation, and after the end of the war, they were used to suppress liberation movements in Third World countries, in particular. In the fifties and sixties of the last century.

Many individual groups of these mercenaries became famous, as did the companies of these Western mercenaries that were doing these dirty jobs in exchange for money, such as the “Mad Mike” group, which was led by a soldier named “Hawar,” who played his role in overthrowing several African governments, including a coup. Seychelles in 1981 AD and the “Crazy Mike” group. (The Black Vests) led by Frenchman Bob Dinard, who participated several times in overthrowing the regime in the Islamic Republic of Comoros, and Tim Spicer's group, which played a role in the failed coup attempt in Papua New Guinea (and many others).

However, the phenomenon of mercenaries, starting in 1946 AD, appeared under new names, and in an organized manner in the form of commercial companies concerned with everything related to the security and military field. It is an attempt by the international community to turn the page on mercenaries as an ugly term that was used to win wars and control areas of influence. The researcher, Mustafa Al-Sayyid Abu Al-Khair, believes that the beginning of the establishment of military and security companies dates back to the period after World War II, after the founding of DynCorp by a group of veterans in the United States of America. In 1946. Other researchers (Ahmed Ali Salem, Omaira Abdel Latif, and John Geddes) believe that it dates back to the mid-sixties of the last century when the English-Scottish colonel Sir David Sterling established the “Watch Guard International” company, whose services provided services to some Gulf countries.

These companies also worked to guard heads of state coming through coups in Third World countries, which were usually planned from abroad, or to protect their governments and protect oil wells and diamond mines, as is the case in Africa. They even carried out coups against regimes that rejected hegemony, as happened on the islands. The satellite is led by the French mercenary Bob Dinard, and in other countries such as Guinea, the Seychelles Islands and other countries. The decade of the nineties of the last century and the beginning of the new millennium witnessed a terrible boom for these companies, which grew like mushrooms and became a new influence on the course of international relations. This was clearly demonstrated by the war on Afghanistan (2001) and the war on Iraq (2003), where these companies had a role. The Allied forces greatly assisted in the occupation process, due to the characteristics possessed by these companies, which we will talk about later.

Therefore, we conclude from the above that the development of private military and security companies has gone through two stages in international relations:

The first stage: the beginning and the simple role in international relations

The first stage extends from the role of private companies concerned with military and security affairs as actors with little influence in international relations, with the emergence of private military companies from

the beginning of the era of the first European colonization of the countries of the world, up to the period of the end of the Cold War. The most famous company that worked to sponsor mercenaries is the India Eastern Company. The same applies to most colonial countries, such as France, Spain, and the United States of America, which followed suit in the nineteenth century until the mid-twentieth century. There was a change in the function of companies concerned with military and security affairs after the middle of the twentieth century, as these companies became involved in conflicts and wars, as happened in Zaire and Angola.

The second stage: the actual role in international relations

Companies specialized in military affairs began waging wars on behalf of countries since the end of the Cold War in 1998. They grew in the 1990s thanks to the United States of America, and they had a role in shaping the country's features. From the international political maps of a number of countries in the world, the great powers continued to follow in the footsteps of the United States of America, as well as international organizations, led by the United Nations, which was concerned with implementing the organization's programs, such as peacekeeping operations in Angola, Bosnia and Herzegovina, Rwanda, Sudan, Mozambique, and others.

The phenomenon of using fighters in wars in exchange for financial compensation without them being soldiers of those countries, that is, holding the nationality of the country in which they are fighting and for which, is well-known in human history throughout the ages. . The Romans were among the first colonial empires to use this type of soldier. Barbarians from the Germans, Slavs and Huns in its wars. In the middle ages, this phenomenon became more widespread, specifically in the Hundred Years' War led by private security companies, which was one of the fiercest war battles led by these companies. The King of France (Jean II Le Bon) tried to eliminate these companies due to their growing role and power, but these companies united among themselves and crushed the royal forces. In the Battle of Priene in 1362 AD, some believe that the beginning of this phenomenon dates back to the days of the Greek Emperor Xenophon, who recruited ten thousand Greeks to fight in Persia in exchange for money. While others believe that their true history begins before the French Revolution in 1789 AD, but it clearly appeared in the last third of the last century, especially in the African countries left behind by French and British colonialism.

Cooperation between security protection companies and regular forces began since the Vietnam War, especially by the CIA within a secret program known as (black operations). The mercenaries were sent to carry out assassination and sabotage operations against Vietnamese sites and figures that the American government did not want to be directly involved in, due to the unacceptable and irresponsible actions of the mercenary soldiers and their practices, which made them an unacceptable element in societies. However, in general, they are present in many societies, and it is known that mercenaries perform roles contrary to the values of human societies in exchange for wages without having a reason to fight or kill for.

Mercenaries are mostly retired military personnel, especially those who have previously worked officially as individuals protecting officials in their countries or protecting wealthy people, banks, etc. A mercenary is usually a professional in the life of a soldier, from which he gains combat ability and high efficiency. This is not available to those who do not live the life of a soldier permanently. Mercenaries are used by regimes or countries, armies, or individuals to implement their policies and achieve their goals by the means they determine.

The role of this warrior class declined as a result of the growing role of the nation-state and the growth of patriotic feelings that linked citizenship to the extent of an individual or soldier's belonging to his state through joining the army as an expression of his affiliation. Belonging and committing to the issues of his country, but playing this role is growing again in the era of globalization with the decline of national legislation that prohibits an individual or citizen from joining institutions or companies that practice military action for the purposes of financial profit. Indeed, the demand for this type of warriors has increased by institutions and organizations (for example, some organizations affiliated with the United Nations and states) for various considerations, most notably the professionalism and competence they enjoy and the

speed of their mobilization to perform the tasks required of them without entering into bureaucratic and procedural procedures that take a long time to recruit. fighting force.

With the increase in international conflicts at the international, regional and national levels, the phenomenon of mercenaries has spread to carry out new tasks that were previously within the tasks of national armies, such as ensuring the supply of fighting forces with supplies and weapons. This happened in the Balkan wars, Afghanistan, and now in Iraq.

The security protection brigades practice a combat nature similar to regular armies, despite the occupation forces' insistence that they do not bear legal responsibility for the criminal acts carried out by their mercenaries. If there are courts they are supposed to be brought to, it should be in their country of origin, not in Iraq, the place where the crimes were committed. International security companies began providing their services directly to governments in occupied countries to help maintain internal security. The British government agreed with a private security company to protect its embassy in Baghdad in exchange for (15) million pounds sterling. Practical steps began to privatize the Iraq war in place of the British and American forces occupying Iraq. This is done by replacing the British and American occupation soldiers with mercenaries, or what the United States calls employees of security protection companies or security contractors, which indicates that the process of withdrawal of American and British forces has begun in Iraq. The ratio of regular British forces in Iraq to mercenary forces is (1 to 6) and the total number of these forces is (48) thousand mercenaries, including only (7) thousand regular forces and 41 thousand mercenaries.

The third subsection: the legal status of its employees under international law

The increasing presence of workers in military companies, and their violation of the scope of wars and conflicts, has prompted states and the International Committee of the Red Cross to search for a way to oblige them to respect the rules of armed conflicts. However, this will only be useful if we know the correct legal description of these individuals so that we know which rules apply. For the work they do.

Mercenaries

A mercenary, according to international humanitarian law, is a person who is specially recruited locally or abroad to fight in an armed conflict. The rules of international humanitarian law stipulate that a mercenary is not entitled to prisoner-of-war status upon capture. Moreover, in light of this serious issue, some conditions must be met (six conditions for a person to be considered a mercenary, such as the condition related to actual participation in hostilities, which is a description that can be applied to only some countries) employees of military companies, and a large number graduate from them. The condition that the person is not reside in the territory of one of the parties to the conflict is a condition that is not always met, in addition to that condition and that he does not hold the nationality of one of the parties to the conflict. This is a condition that does not apply to all military companies, such as Blackwater for example, which participated in the war on Iraq and carried the American nationality.

For reference, it is the duty of all countries that have ratified the United Nations and Organization of African Unity conventions on combating mercenaryism to prosecute and punish mercenaries, knowing that mercenaries have the right to obtain appropriate conditions of detention and to be subject to fair trials. The above-mentioned special report indicated that employees of private military and security services companies cannot be explicitly considered mercenaries, because the definition contained in Article 47 of Additional Protocol I and Article 1 of the International Convention against the Recruitment, Use and Financing of Mercenaries (12/4/1989) does not apply to them legally.

Fighters

The importance of determining the status of an employee in a military company, whether he is a combatant or not, stems from the fact that a combatant has rights under international humanitarian law that an employee would only have if he was classified as a combatant. He also has duties under the same law. A

combatant in international humanitarian law is a person who may be targeted at all times, has the right to participate directly in hostilities, and enjoys prisoner-of-war status if captured.

In international humanitarian law, combatants are divided into several categories, two forms of which can apply to workers in military companies, which are: -

- 1- They must be members of the armed forces of one of the parties to the conflict, or members of militias or volunteer units that form part of these armed forces.
- 2- They must be members of other militias and other volunteer units, including members of organized resistance movements who belong to one of the parties to the conflict and operate within or outside their territory, even if this territory is occupied, provided that: the conditions are met in these militias or volunteer units, including resistance movements: the aforementioned organization.
- 3- They should be led by a person responsible for his subordinates.
- 4- They must have a specific distinctive badge that can be distinguished from a distance.
- 5- Carry weapons openly.
- 6- They must adhere to the laws and customs of war in its operations.

Members of the armed forces of one of the countries

Employees of military companies are considered members of a country's armed forces if the country itself employs them. However, if they are used under contracts not concluded by the state itself, they do not carry the status of combatants, and the mere conclusion of the contract without the presence of actual implementation is not considered a fact that gives the status of a combatant.

If he engages in activities similar to those carried out by a regular combatant in the regular army, he is also considered a regular combatant. However, if his mission is limited to merely cooking, cleaning, and other work that falls outside the scope of combat, then he cannot be considered as such. In general, there are some indicators by which one can judge the extent to which an individual is a fighter in the armed forces of a country or not, which are:

- 1- To be subject to call-up and recruitment procedures for military service.
- 2- Working as an employee in the Ministry of Defense.
- 3- Subject to military justice.
- 4- It must be within the military chain of command and control.
- 5- Joining the military ranks.
- 6- Carrying identity cards stipulated in the Third Geneva Convention, or any other proof of identity such as those carried by ordinary members of the armed forces.
- 7- Wearing the army's military uniform.

These indicators are indicative only and are not conclusive. It is possible for members of military companies to fall into the categories of fighters without any of them being present, and it is possible for some of them to be present without the description of a fighter being attached to them, which is what happens most of the time. Since states rarely declare these individuals as members of their regular army, because their goal in employing them in the first place was to apparently reduce the number of their forces and official losses

and not bear international responsibility for their actions, so how can they do that. Spent huge sums of money to obtain its services and then announced its presence among its crews publicly? Therefore, there is no room for them to be considered regular combatants except in rare cases related to their capture and doubt about adjusting their legal status.

Members of other militias or volunteer units belonging to a state party to an armed conflict

This category is the second category of fighters that can apply to employees of military companies, which are groups that are organizationally independent from the regular army and fight alongside it at the same time. However, this description does not apply to them unless they meet the four conditions of responsible leadership, openly carrying weapons, and adherence to the laws and customs of war, as well as the existence of a subordinate relationship from the group to the state on whose side they are fighting.

By applying these conditions to workers in military companies, we find that the lease contract can represent a subordination relationship to the leasing or contracting state, provided that the contract was concluded with the state directly and not through any intermediary or other party. As for meeting the other conditions, this is where the problem appears: each case must be studied individually, and it is not possible to give a theoretical collective description of all employees in all circumstances. In more detail on this point, the first condition is usually met and there is no problem with it, which is the condition of responsible leadership, because the company will not work without a responsible person, knowing that the leader is not required to be a soldier or a field officer. International humanitarian law has left this condition at all, and has only stipulated that there must be a commander who bears responsibility for the actions of those who receive orders from him and carry them out. In this regard, the commander is not responsible for the behavior carried out by his employee without his individual supervision, who is not then considered a lawful combatant in all circumstances.

The situation related to wearing the emblem is the most complex and least available in the work of military personnel. They usually do not carry any distinctive insignia, but rather deliberately blend into the ranks of the army or even among civilians in a way that makes them difficult to distinguish in order to transmit intelligence information. The absence of this condition means that they cannot be described as internal combatants (militias.)

As for the requirement to carry weapons in public, it is a simple condition compared to what employees do whose primary task is to carry weapons, which they consider to be the first and only means of protection, especially since they are often outlaws and do so. They do not respect the provisions of international humanitarian law, which makes them vulnerable to being targeted, as they rarely implement norms of war and its traditions, and they do not respect the provisions of international humanitarian law, which in turn means it is difficult to fulfill the fourth condition.

Therefore, these employees cannot be considered militia members due to the difficulty of fulfilling their conditions due to the different nature of their work. However, this does not prevent them from being considered as such if all previous conditions are met without exception at the same time.

Civilians

If Private Military Companies employees are considered civilians, this description makes them immune to the possibility of attack unless they participate directly in combat, in which case they become unlawful combatants who are not entitled to prisoner-of-war status if they are captured and can be prosecuted for participating in combat even without taking place. This is a clear violation of international humanitarian law. Mere participation is sufficient, and within the framework of this participation, civilians assume one of the following descriptions:

A- Civilians accompanying the armed forces are individuals who accompany the armed forces without being actual members of the military. This includes individuals such as members of military aircraft crews, war correspondents, catering contractors, and members of work units or services specialized in entertaining

military personnel. However, it is required for these civilians to obtain permission from the armed forces they accompany. The armed forces also provide them with an identity card according to the attached form.

If employees of military companies are limited to these limits, they are non-combatants who are entitled to prisoner-of-war status in the event of their capture, which is an exception granted to this category. Naturally, he only bears the description of a combat prisoner, but this situation is a departure from the general rules. What is striking in this area is that the aforementioned activities are mentioned, but not limited to them, and therefore confusion may occur in the process of granting the permit and the ID card, but what can be said is that the ID card is merely an additional guarantee and proof of possession of a work permit. The issuance of the permit remains unspecified, as it can. The state grants it to escorts without any special conditions, which constitutes a cover that can be used to take advantage of the prisoner's benefits, but if these civilians participate in combat, they will no longer have the right to enjoy prisoner of war status if they are captured. Rather, they are treated as an ordinary civilian participating in hostilities, and are denied the protection afforded to them under Section I of Chapter IV of Additional Protocol I relating to protection against the effects of combat.

Ordinary civilians

If none of the above descriptions apply to military personnel under international humanitarian law, they must be considered ordinary civilians and therefore may not be targeted in combat operations, nor may they engage in activities that amount to direct participation in combat. These are activities intended to cause actual harm to individuals. The enemy and his equipment, and in all cases they are entitled to benefit from the minimum standards of treatment contained in the Fourth Geneva Convention and from judicial guarantees as well. However, if this employee is not classified within any of the previous categories, he still has the right to enjoy the guarantees stipulated in Article 75 of Additional Protocol I, which are the minimum guarantees guaranteed to every natural person, regardless of his capacity or position, as well. As the customary rules of international humanitarian law applicable in international armed conflicts. One of the provisions of Article 3 common to the Geneva Conventions in cases of non-international armed conflicts. In general, international humanitarian law determines the status of Private Military Companies personnel on a case-by-case basis according to the nature of the mission in which they are engaged. They are civilians, if they do not participate in armed action, and enjoy protection that they would lose if they became combatants. In all cases, these people have a duty to respect the law in everything they do.

The second section: Tasks assigned to private military companies and legal efforts regarding them

Introduction and division

The repercussions of the era of globalization had the greatest impact on the change that occurred in international relations and the growing role of multinational companies, to the point that these huge and integrated institutions began to play a major role in drawing up some of the private policies of some parties. At the expense of the rules prevailing in the nation-state, as the latter no longer controls the means of production in this era, as the private sector has a leading role in directing states, even if the state must be ignored and their institutions versus the interests of different groups, and these companies have taken a leadership role in directing the interests of national states related to providing security and protection. It is an expression of the marriage between the public and private sectors, where the former entrusts the latter with some tasks that are at the core of his job to carry out.

As the intensity and number of international conflicts increased, these companies were assigned new tasks, such as ensuring the supply of supplies and weapons to combat forces, as happened in the Balkan, Afghanistan and Iraq wars, where their missions were based on guarding. Heads of state coming through coups in third world countries, or protecting governments themselves, and protecting oil wells and diamond mines in Africa.

International and national efforts have been made regarding these companies in order to codify rules and clarify principles that explicitly and well affect the work of these companies.

Based on the above, we discuss, in this study, two subsections:

The first subsection: the roles and tasks assigned to private military and security companies

The second subsection: legal efforts regarding private military companies

The first subsection: the roles and tasks assigned to private military and security companies

It has previously been said that private military and security companies are those entities that provide armed security services as a private commercial activity to achieve profit. This means that they are a commercial business like all other activities, because the intention of making a profit brings the activity into the circle of commercial work. On the other hand, the activity of these companies is not limited to achieving financial profit only, but rather it performs a set of tasks and roles within and outside the borders of the country that created and issued it in accordance with its legislation. Below we review some of these roles as follows:

First: The logistical role of private military and security companies

There is no doubt that assigning the military function in terms of security, training, and logistical support is a direct result of the reduction in the military capabilities of many countries at the present time. The process of privatization of security and wars has led to private military and security companies assuming some tasks to reduce the burden on the regular armies of countries. Among these logistical roles we mention the following:

- Training and training: This is one of the most important roles assigned to private military and security companies. The latter undertakes the task of forming regular armies in countries, especially newly independent countries or those whose armies collapsed as a result of the occupation or the overthrow of their regime. That is, it has become an integral part of modern armed conflict and post-conflict reconstruction. These companies also train and recycle the regular forces of countries that request their services. An example of this is what the American companies US Vinnell and Booz Allen & Hamilton Inc are doing. The first trains the Saudi National Guard forces and the new Iraqi forces after the American occupation in 2003. The second trains and directs military staff commanders, and training may be limited to simulations and war games.

- Supply: Private military and security companies carry out supply tasks for regular armies in areas of armed conflict, that is, transporting food, weapons, ammunition, etc., and all the equipment that armies need in carrying out their military activities.

- Providing military consultations: Private military and security companies provide their clients, states and governments, with military consultations and military tactics for the army and police forces in the countries in which they operate, "because of their tremendous ability to innovate and develop in the short term and at the lowest cost."

Second: The security role of private military and security companies.

In addition to logistical roles, private military and security companies assume a range of security roles, such as providing security to countries that request this service, imposing stability in countries suffering from internal chaos, as well as ensuring the provision of protection for heads of state and senior leaders and political figures in some countries. Below is a description of these roles:

1- Providing security for countries and international organizations:

Many countries and international organizations, led by the United Nations, have begun to use private military and security companies to guard their facilities and installations, and protect diplomatic headquarters abroad.

2- Imposing stability in countries suffering from internal chaos:

These companies work to provide passive security to their individual clients and private companies in particular, especially in places experiencing internal instability, where businessmen and capitalists find it difficult to rely on security forces, the official "police" in the country, to provide protection for them, and this type is the Falcon company in Egypt.

3- Providing protection for political leaders and public figures:

That means protecting personalities, heads of state and government, as well as political leaders and senior statesmen, such as DynCorp, which protected former Afghan President Hamid Karzai, and senior government officials, such as Blackwater, and providing protection for the American civil governor. Paul Bremer, 36 years old, previously served in Iraq. Furthermore, what Global Risk International did in providing guarding for American officials in Iraq.

Third: The military role of private military and security companies

Private military and security companies, in addition to logistical and security roles, perform a group of military roles, the most important of which is direct participation in military operations, peacemaking in conflict areas and hotspots mandated by the United Nations, and the maritime security industry by reducing pirate attacks, as well as working to protect Sites and facilities. Vital in countries that require these services, a description of these roles is as follows:

1- Direct participation in military operations

Private military and security companies are increasingly involved in military and law enforcement operations, as their industry has witnessed rapid growth in recent years, but without a specific legal framework in international law, which international jurisprudence likens to the activity of mercenaries in areas of international armed conflict. Conflicts, where they commit acts of brutality and gross violations of the principles of law. An example of the International Humanitarian Committee is the role played by the notorious American military company Blackwater in the occupation of Iraq and Afghanistan in support of American forces.

2- Peacemaking

A number of these specialized companies carry out tasks for the United Nations and the United Nations Security Council and participate in some international peacekeeping operations, mine clearance, protection of United Nations employees, headquarters and movements, as well as the protection of humanitarian aid convoys in the country. Many conflict hotspots around the world, especially in Africa, originate from Sudan to Somalia, Nigeria, Mali, Sierra Leone and others.

These companies also participate in peacekeeping operations, as they are used either by countries that do not wish to send their military personnel to support peacekeeping efforts, or by countries that are unable to do so, that is, unable to send soldiers outside the country, because the number of its armed forces is sufficient, otherwise it will face internal problems.

3- Maritime security industry

Maritime security is usually linked to securing means of maritime transportation, especially commercial ships that are used to transport goods, goods, and fuel between different countries, as private military and security companies usually protect international transportation lines as well. Like sea trade lines, from attacks by sea pirates. Especially in areas that witness a terrible proliferation of pirates, such as the Gulf of Aden and the Indian Ocean, as well as the coasts of Somalia, where the contents of ships are seized, passengers are held hostage, and then ransom is demanded from their countries.

This has prompted many countries to seek the help of members of private military and security companies to ensure that their commercial and civilian ships reach their destination, by taking members of these companies on board commercial ships for rapid intervention in the event of a threat.

4- Protecting vital sites and facilities

Many countries witnessing internal chaos and insecurity, such as Iraq, use private military and security companies to protect vital installations and sites in the country, such as the headquarters of ministries and the presidency, ports and airports, as well as facilities related to the oil industries and oil fields.

The second subsection: legal efforts regarding private military companies

In recent years, some attempts have been made to codify international rules and clarify principles that explicitly or indirectly affect the work of private military companies.

First: International efforts

1- UN initiatives: The first initiative relates to the decision of the International Law Commission, regarding the elaboration of “Draft Articles on the Responsibility of States for Internationally Wrongful Acts,” which stipulates that States should also be responsible for unlawful undertakings undertaken by private sector agencies acting on behalf of the negotiating party. It is a multilateral agreement on state responsibility which others expressed their rejection or reservations about it. The second initiative was implemented by the United Nations Human Rights Council Working Group on the Use of Mercenaries. The latter submitted a “potential draft convention on private military and security companies” in July 2010. This law stipulates that states are responsible for the activities of private military and security companies in their territories Article 4 and urges each state party to the treaty to develop and adopt “national legislation.”

2- The Montreux Document: There is another interesting initiative launched by Switzerland in 2006 in cooperation with the International Committee of the Red Cross, and it was adopted by 17 countries, including the United States, the United Kingdom, Afghanistan and Iraq, that is, the countries most closely associated with the private security industry. The consultations, which included representatives of civil society and the private sector, ended on September 17, 2008, with the adoption of the Montreux Document.

This document consists of two parts. The first part addresses the duties of private military and security companies and their employees, as well as the relevant international legal obligations of states in accordance with international law. The second part provides guidance and assistance to States by identifying a set of good practices for their relationship with private security companies. However, the 2008 Montreux Document does not conclusively state that either part is legally binding, and one of its drawbacks is that it legitimizes the use of Private Military Security Companies in any circumstances.

Some saw the document as a promotional declaration of intent, others warned that the Montreux Document would provide countries with a fig tree to hide the absence of more stringent efforts to regulate the industry. The adoption of the Montreux Document served as justification for the United States and many European countries to express their opposition to the draft UN Working Group Convention on the Use of Mercenaries.

Second: National efforts regarding private military companies

Most countries have not adopted legislation specific to private military companies, despite the nature of the tasks and work assigned to them and their danger to humanity. Most of the countries analyzed by the Working Group noted that they make no provisions at all in relation to military companies, with the exception of the United Kingdom and Northern Ireland. According to what was stated in the report, what these countries call private security companies perform tasks that can be included within military combat missions.

This exposes some countries or political regimes that are working to put the international community before the fait accompli of legalizing private military companies with a commercial background that practice murder and assault. As for what some countries are trying to market that the members and contractors of private military and security companies are civilians, this has been overturned by the facts that have emerged in armed conflicts, whether international or non-international. This is evidence that governments and states have not yet decided the period upon which national legislation will be adopted to ban mercenaries from the private sector under the cover of private security companies at times and military companies at other times.

However, with the encouragement of the United Nations or some individual initiatives, some countries have enacted legislation to either prohibit the use of mercenaries or regulate security privatization under a variety of justifications, whether human rights, international humanitarian law, or self-determination.

In this same context, some countries have banned any activity related to mercenaries, and in parallel have enacted other legislation regulating the work of private military companies. However, most of these laws fall within their own criminal legislation, such as Azerbaijan, Kazakhstan, and Moldova, and some of them have a chapter in the laws that it covers the scope of tasks, work, staff testing and usage areas, which is positive considering what is happening in other countries.

The United States of America is one of the largest suppliers, users and contractors to military companies. Indeed, most of the private military companies with a global reputation are of American origin, as the latter passed the law regulating the export of arms in 1968. It is noted that it deals with the security and military services in the same way it regulates exports of goods, nor does it regulate the way in which these services are used, as this law only requires American companies that provide military services to foreigners inside or outside the United States to obtain permission and licensing from the US Department of Defense in accordance with arms transfer laws. It is enough to know that in 1987, the United States specifically stated: "We do not support the provisions of Article 47 relating to mercenaries and do not accept that its provisions apply to the activities of our security and military companies." However, in return, it strengthened its legal arsenal in the field of regulating private military services through regulatory regulations. Military, national and federal legislation and administrative contractual laws to give a legal character to the legal adoption of mercenaries, as reality bears witness to criminal acts inconsistent with human rights and international humanitarian law committed by private military companies in Iraq and Afghanistan. In 1998, Africa passed the Military Assistance to Security Services Act, which regulates the export of security services. The most important feature of this law is its prohibition of activities carried out by mercenaries, which is defined as participation in armed conflicts to achieve private gains prohibited within South Africa. On the other hand, this law recognizes the provision of services. Military by licensed individuals who have special approval from the government within the framework of the contracts they conclude in reference to allowing contracts with private military and security companies. As a result of this law, which subjects any contractual process between private military companies and their clients to the oversight of the National Security Committee and the South African Ministry of Foreign Affairs, a number of private military companies in South Africa, and a number of private military companies in South Africa. Others were transferred out of the country.

Despite this, this law did not prevent the involvement of private military companies and their nationals working in this field, of South African origin, in supporting a military coup in Equatorial Guinea in 2004. These are all evidence and signs that confirm what many have said. They considered that private military companies, with their various names, are nothing but modern copies and models of traditional mercenaries, and they have received the support and approval of some countries for narrow reasons, all of this in light of the international community's neglect.

Conclusion

We conclude from the above that private military and security companies are legal entities in the form of commercial companies that seek to achieve profit, like other companies of a commercial and economic

nature. However, their field of activity is limited to providing services related to the military and security field, such as protecting people and assets, and escorting dignitaries, protecting the public, installations and facilities and detaining and interrogating prisoners...etc. Below we can highlight some of the results and suggestions we have reached, which are as follows:

Results

1- Private military and security companies are commercial companies whose goal is to make profit, even at the expense of innocent lives, because they thrive and continue to thrive through trade in wars, violence and destruction.

2- Private military and security companies are managed by the private sector, not states or governments, although their establishment is in accordance with the national legislation of these countries.

3- Private military and security companies are distinguished by a set of characteristics that differ from other private sector companies, despite their establishment under the same conditions and with the same legislation, as they provide various services related to the security and military field.

4- Private military and security companies are independent entities in their dealings, which makes them operate without legal or ethical controls, because there are no legal texts that define their activities and areas of work.

Recommendations

1- Controlling the rapid growth of private military and security companies, especially since they operate without a clear and specific legal framework in international law, even though they have become an independent economy.

2- The necessity of developing strict national legislation to determine the legal system for this type of company, including incorporation, approval, activity and legal responsibility, especially those related to international humanitarian law and international human rights law.

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