

# SHOULD PRIVATE MILITARY CONTRACTORS BE USED TO SQUASH AN INSURGENCY?

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The use of mercenaries and private military contractors (PMC's) to provide operational support and fight in combat in conflicts worldwide has expanded tremendously since 9/11. The most notorious of these shadow armies, Blackwater, has put PMC's in the public eye – for all the wrong reasons, when, in 2007, four employees were convicted in the U.S. court for killing 14 Iraqi civilians in Nisour Square, Baghdad.

Granted, incidents of this nature are definitely not limited to PMC's. Atrocities against civilians in combat by government and allied forces have been well-documented. The most notorious examples are Robert Bales, who went on a killing spree in Kandahar that ended in the deaths of 16 Afghan civilians, the My Lai massacre during the Vietnam War, the Maywand District murders in Afghanistan, and the Haditha killings in Iraq.

### **United Nations efforts to regulate mercenaries and PMC's**

Closely following the trend and recognizing concerns, the United Nations (UN) have tried to regulate the private security industry, using resolution 44/34, the International Convention against the Recruitment, Use, Financing and Training of Mercenaries that has passed in 1989 and came into effect in 2001.

Their efforts have been largely inadequate, partly due to the fact that only 49 nations have ratified the convention to date and the distinction between a mercenary and PMC as a legal, and, therefore, presumably, an accountable entity. Nations with the most prolific use of PMC's, including the United States, Australia, and the U.K., have not signed the resolution. According to Article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, A/RES/44/34 of 1989, a mercenary is any person who:

- a) Is specially recruited locally or abroad in order to fight in an armed conflict (or participating in a concerted act of violence aimed at overthrowing a Government or otherwise undermining the constitutional order of a State; or undermining the territorial integrity of a State);
- b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;
- c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;
- d) Is not a member of the armed forces of a party to the conflict; and
- e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

Article 2 stipulates that any person who recruits, uses, finances or trains mercenaries, as defined in article 1 of the present Convention, commits an offense for the purposes of the Convention.

From the definition it is clear that there is a definite legal distinction between a mercenary, as an individual soldier for hire with no title or company attachment, and a PMC, as a corporate entity with a legal binding, and a public face. As such, PMC's depend on their reputation and credibility to successfully complete contracts to secure future business.

Nevertheless, despite the fact that the Nisour Square massacre highlighted concerns about the use of PMC's in combat roles in terms of oversight and accountability and attempts to outlaw mercenaries

and paint PMC's with the same brush, there are a growing number of private military firms worldwide, and an equally growing unease about their adherence to responsible practices.

### **Benefits of PMC's in counter-insurgency operations**

So, what are the benefits and concerns involved in hiring a PMC to counter an insurgency – a context it is often used in?

According to the Indian Sub Conventional Doctrine, insurgency is defined as “an organized armed struggle by a section of the population against the state, usually with foreign support. Possible causes of an insurgency including ideological, ethnic or linguistic differences; or politico-socio-economic reasons and/or fundamentalism and extremism. Interference by external forces may act as a catalyst to provide impetus to the movement.”<sup>i</sup>

Although the last sentence already alludes to a possible unintended consequence of the use of a PMC abroad, let's first consider some of the advantages compared to using a conventional (State-owned) army.

Most private military contractors are veterans who wish to pursue a career in a military role and have a good enough track record and experience to be hired as a contractor. As such, their average level of training and expertise is superior to that of a soldier with similar responsibilities in many instances. Contractors are not bound to federally mandated training requirements such as combating trafficking in persons, equal opportunity, information assurance, North American Treaty Organization security, Privacy Act, sexual assault prevention and response, sexual harassment, and substance abuse prevention, programs that take up the time of a uniformed service member.

It is easier and quicker to fire a contractor than discharging a soldier.

A PMC is more efficient than a military unit counterpart as resources are more directly geared to operations. The tooth-to-tail ratio is much higher than in a conventional military agency. For instance, the Blackwater tooth-to-tail ratio (i.e. number of trigger pullers to support and administrative staff) was 20:1 at the height of their operation in Iraq, compared to the U.S. military ratio of between 1:8 and 1:12, according to ex-CEO Erik Prince.

The death of a soldier is a national tragedy, while the death of a contractor raises fewer public emotions and is seen as a peril of a dangerous (and well-paid) job.

PMC operators do not have as many organizational and bureaucratic constraints as their soldier counterparts. They have more freedom of movement and association and can live in a house in town with locals. As a result, peripheral equipment and service requirements are much leaner, the PMC's can blend in better and gather intel, and are more mobile as they don't need PACE (Primary, Alternate, Contingency, and Emergency) plans for communication and armored vehicles in a convoy.

As such, the operational costs and overheads of PMC's are much lower and less operationally restrictive. They can be more fluid and reactive in the field and accomplish a lot more with a lot less.

In conclusion, mercenaries do have some advantages when it comes to the skill and ability to complete missions over regular soldiers, but there are some potential issues too.

## Pitfalls of using PMC's

Many of the issues that PMC's face in conflicts of foreign soil are shared by conventional units but there are some subtle differences that will be influenced by the way the company is managed and the checks and balances it has in place. Undoubtedly the largest concern is a lack of accountability borne in part because of (potentially) lower standards of Standard Operating Procedures (SOP's) and Rules of Engagement.

1. **Lack of accountability** – Typically, the conduct and range of powers of a PMC are only governed by the criminal laws of the jurisdiction they operate in, and, (sometimes) to a lesser extent, by guidelines and conditions set by their employer. Lower levels of political, financial, and social control and accountability are relatively common, leaving the PMC to enforce its own rules of conduct and flying under the radar of public scrutiny.
2. **Cultural clash** – The PMC may be seen to represent the very culture and modernity that the insurgents are fighting against and trying to prevent from taking hold in their area. Their involvement may even solidify the opposition and intensify hatred, especially if their actions are seen as intrusive, sinful, and disrespectful. (The same often applies to foreign conventional military units).
3. **Cost** – Although the price of a PMC is usually kept well under wraps, CNN estimated the pay of individuals working for PMC's between \$500 and \$750 per day, or \$15,000 to \$22,500 per month. This is about four times as much as an infantry officer with combat leadership experience earns in the U.S. Army. The U.S. spent at least \$138bn on private security, logistics and reconstruction contractors in Iraq between 2003 and 2013. The total value of all Blackwater contracts at the end of 2006 was \$1bn. On the flip side, a proposal submitted by ex-Blackwater CEO Erik Prince to “privatize” the U.S. war in Afghanistan is valued at \$3.5bn, compared to the \$62bn per year that the war is said to cost the American taxpayer. However, in reality, these “savings” are often murky and difficult to pinpoint.
4. **Mission creep** – Apart from establishing a resume and building credibility, which are both important in any industry but somehow elusive, PMC's have little incentive to end a conflict quickly. Instead, there are benefits to having an armed uprising ratchet up and violent skirmishes extended temporally and spatially so that extended services can be offered, especially to governments that are desperate and have a lack of fiscal control.
5. **Communication and intelligence issues** – On foreign soil, a PMC is often not familiar with the customs and culture of the local population, both civilians and belligerents, and have a language barrier. Local guides, translators, and informants are needed, whose loyalties can be unpredictable as they can be duplicitous or threatened. Foreign PMC's do not blend in easily, and even if they use the guise of delivering humanitarian aid, trustworthy information on the ground is hard to come by. (The same applies to foreign conventional forces).
6. **Distrust** – In the context of an armed uprising and insurgency, locals, including non-combatants, have a deep-seated distrust of foreigners and those seen interfering with the local order of things, customs, and sovereignty. Granted, the opposition is probably at least similar regarding “formal” occupational forces.
7. **Murky financial dealings** – Although many PMC's are publicly listed companies with regulated financial dealings and annual statements, sometimes operations are funded off-the-books through separate affiliates, NGO's, and privately-owned companies, which blurs

financial and management accountability. For instance, Frontier Services Group (FSG) appears to be a fitting example with JV's between FSG, Lancaster 6 Group –with which FSG denies any ties – and the Mozambican government, and a presumed sub-contracting arrangement with Durban-based Umbra Aviation, among others.

8. **Unit cohesion** – Contractors with different backgrounds and cultures can be supplementary, but their cohesion, cooperation, and loyalty will not necessarily be the same as an infantry unit with the same basic training and doctrine.
9. **Dubious loyalty and morals** – Although the competitiveness in the private military sector probably eliminated most of these issues, it still happens that individuals with issues such as a previous dishonorable discharge, psychological issues, and criminal inclinations end up as contractors.
10. **Mental health issues and aftercare** – Mental health issues among servicemen and veterans have received considerable attention over the past few years. Combat veterans receive free medical and mental health care and pre- and post-deployment health assessment are standard practice in many agencies. PMC's are generally not eligible for any similar services and held to the same responsibilities. Despite returning home with similar levels of combat-related mental health problems than regular military personnel, and many employers belonging to the IPOA, a major trade association for private military contractors that requires appropriate screening, thousands of contractors are affected.

It is true that PMC's are usually very well financed, equipped, and trained, but as a colleague recently questioned “Who are they fighting against?” – a very valid question in most insurgencies, especially in the early stages of an uprising leading up to fourth generation warfare conditions.

### **Who are they fighting against?**

Let's take the recent series of violent skirmishes in the Cabo Delgado province of Mozambique as an example. Since October 2017, there has been at least 77 notable attacks, raids, and skirmishes in which 135 civilians have been killed and nearly 1,000 structures burned and looted. The group, widely accepted to be an Islamist insurgent movement, is known as Ahlu Sunnah Wa-Hamo, or Ansar al-Sunna, but is not unified and split into different uncoordinated cells.

In addition to their religious and political aspirations, they are linked to organized crime to fund themselves, including looting, pillaging, and trafficking routes of heroin, rubies, ivory and other contraband that move through Cabo Delgado. The group attracts local followers based on the poor economic conditions in the region, dissatisfaction with the government and military, and a feeling of marginalization and disenfranchisement.

Although the group's activities are still uncoordinated and limited to low tech attacks in remote villages, reports have emerged of the presence of at least one ISIL cell and al-Shabaab fighters in the area, with possible external funding aimed at disrupting the off-shore gas exploration and supply of companies operational there. These signs indicate a possibility of the start of an intractable conflict that will be devastating to the already beleaguered country.

So, the question is: are the timing and conditions right for a counter-insurgency operation by a PMC? Erik Prince and his concoction of business interests are busy setting up the manpower and resources to do just that, promising to end the insurgency within 90 days. But, with a group embedded in local

communities, such a promise may be elusive and costlier than anticipated, for the cash-strapped government, but also for ordinary Mozambicans.

### **Should a military contractor be used to squash the insurgency in Mozambique?**

So, returning to the original question, “Should a Private Military contractor be used to squash an insurgency?” the answer is conditional.

As with most complex situations, it depends.

It depends on the operational efficiency and management acumen of the military contractor. Its ability to identify and target insurgent ringleaders quickly without escalating the conflict. Staying accountable under humanitarian and criminal laws, military code of justice, and common moral standards. And demand that its State and other financial and operational partners act without compromise.

These requirements are already challenging enough to adhere to in normal business settings. In military arenas on foreign soil, it takes an exceptional leader to operate within these parameters – while making a profit, which is ultimately the goal of a private military contractor.

Therefore, let’s make sure to follow the developments in Cabo Delgado closely and keep as many facts in the open as possible. Appraisal and accountability from the start are the only ways to avoid State capture or compromise, unnecessary escalation to an intractable conflict, and further harm to civilian life and livelihood.

Reference: Integrated Headquarters of Ministry of Defence. (2006). *Doctrine for Sub Conventional Operations*. Shimla, India: Headquarters Army Training Command (p. 64).

Photo: WBUR