



The Business of War and its implications for the Human Rights

The proliferation of Private Military Companies and mercenaries reflects the persistence of armed conflict as a global constant. Their lack of regulation and use of financial systems and cryptocurrencies to finance themselves perpetuate violence and impunity.

Armed conflicts and wars are not a thing of the past, but a constant reality in the world today. According to the latest Global Peace Index compiled by the Institute for Economics & Peace, there are currently 56 active armed conflicts with 92 countries involved in wars outside their borders. In this landscape of violence, Private Military Companies (PMCs) have played a central role, being hired by States and private actors to perform functions ranging from logistics, prisoner detention, advising, and even combat operations.

A significant increase in the use of PMCs occurred during the 1990s, following the Cold War, to address sub-state violence and ethnic conflicts after the departure of States like the US and Russia. Another relevant rise took place in the 2000s, mainly as a result of the global war on terrorism. During these years, many PMCs were deployed to fight in Afghanistan and Iraq, but they were also hired to privatize border security and the detention

of immigrants. This surge in the use of PMCs by major powers has legitimized them as a key tool in strategy and control in conflict regions. However, despite the growing trend, their use raises serious legal and humanitarian implications, which has led to questions about the role that financial institutions can play in better controlling these companies

The use of PMCs provides States involved in foreign conflicts with benefits such as cost savings from not having to maintain an army during conflict or even during peacetime, or the possibility of avoiding responsibility for actions taken during these conflicts in order to win. However, there are risks in using them; PMCs are not part of the military chain of command of the contracting State, which makes control over them difficult once they are hired. Furthermore, the business model of PMCs requires conflict, meaning they are not interested



in achieving peace and stability but may even promote the continuation of a conflict that could have ended, which only worsens the suffering of the most vulnerable in these conflicts. The reality is that the use of PMCs is linked to the escalation of violence against the population. Additionally, the right to development of communities is often violated because the exploitation of natural resources is used as a form of payment, depriving the civilian population of access to these resources, which hinders their own growth and well-being.



It must also be taken into account that the UN Charter prohibits States from resorting to the use of force against the territorial integrity or political independence of another State, except in specific cases such as self-defense. Therefore, this fundamental principle forbids States from using any means, including mercenaries, as tools for aggression or intervention in the sovereignty of other countries.

Because of these violations that may result from the use of PMCs, international law has prohibited the use of mercenaries in armed conflicts in Article

4 of the Hague Convention V. The distinction between PMCs, which provide logistics and do not directly participate in hostilities, and contractors, considered mercenaries, is defined in Article 47 of Additional Protocol I to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts. The most relevant differences are the necessity to actively participate in the conflict and especially that there is a materially substantial remuneration higher than that given to soldiers with similar grades and functions in the armed forces of the State concerned.

The current definition of mercenary in international law poses serious identification issues because many individuals who could initially be considered as such do not meet all the established criteria. This is because it is difficult to prove that they receive a higher remuneration compared to their counterparts in the armed forces, and because non-pecuniary compensations, such as receiving exploitation rights to natural resources, reductions in prison sentences, or the offer of citizenship, are not considered as remuneration.

Although this definition is intentionally restrictive to limit the special protection of combatants to exceptional circumstances, its rigidity leaves out many activities that should be regulated. These legal gaps allow actors involved in armed conflicts to evade accountability. Expanding this definition is essential to reflect the complexity of the current context and to close legal gaps that perpetuate



Impunity.

Despite the illegality of mercenaries, their use is a common practice in conflict settings, greatly facilitated by access to financial resources through traditional banking systems and opaque, insufficiently regulated financial networks. This reality highlights the need for financial and international institutions to implement robust due diligence mechanisms to identify and prevent the financing of activities linked to mercenaries. Adequate control systems are a key link in limiting the operations of mercenaries and protecting human rights in conflict scenarios.

Traditional electronic bank transfers or mobile banking are commonly used as payment methods for mercenaries' services or even for the subsequent money laundering of these mercenary groups. Through the creation of complex and fictitious business structures, mercenaries can receive and launder money without facing complications from financial institutions or international legal tracking.

It is crucial that financial institutions are required to conduct proper due diligence to identify and prevent operations linked to mercenary financing and related money laundering. It is not enough for banks to implement basic controls; they must have advanced methods and tools to identify transfers that conceal payments for mercenaries' services or money laundering carried out by mercenaries. Regardless of the harm these practices may cause,

these activities are international crimes, and financial institutions cannot evade their responsibility to prevent them. They cannot continue to hide behind a lack of jurisdictional clarity or client-bank confidentiality. Furthermore, responsibility must be demanded when they fail to prevent these activities, imposing sanctions from international institutions. This is crucial because governments benefiting from the use of mercenaries are unlikely to push for strict regulations against financial entities that facilitate these transactions. Only a global, coordinated, and firm approach can ensure effective control over these activities, aligning the responsibility of financial institutions with the goal of preserving human rights.

Therefore, the importance of cooperation between financial institutions and international jurisdiction can be observed. However, the problem goes further, as there are other payment methods frequently used that present greater transparency issues. Cryptocurrencies are an unregulated instrument whose tracking is complicated, making it a useful method to hinder the proof of the existence of economic compensation from the contractor to the mercenary. Furthermore, they are decentralized, meaning they are not controlled or backed by any central bank and are difficult to deactivate. Also, cryptocurrency wallets do not require the authorization or requirements that are Necessary to open a bank account, making them an



easier payment method to use.

Moreover, even if effective control were achieved over traditional payment methods for mercenary activities, they would still be profitable due to their ability to adapt and find self-financing methods once within the conflict territory. Activities such as drug trafficking, arms and goods smuggling, and even illegal exploitation of natural resources become alternative sources of income for these groups. This ability to self-finance not only perpetuates their presence in conflicts but also exacerbates instability, violence, and abuse against the civilian population, making it even more difficult to resolve conflicts and rebuild affected States.



Similarly, non-pecuniary remuneration is also commonly used, especially in cases of predatory recruitment, where people in vulnerable socioeconomic situations are recruited. In these situations, it could also be argued that the requirement for higher remuneration than that of mercenary counterparts is not met, as recruits often accept inadequate conditions. This has legal

implications because, if this criterion is not met, recruits cannot be considered mercenaries and therefore, their participation in armed conflicts is not considered illegal.

Armed conflicts and the proliferation of Private Military Companies and mercenaries continue to be a serious threat to global stability and the respect for human rights. Since the States most affected by these phenomena often lack solid institutions to supervise and control these activities, the responsibility of addressing them falls on States with greater resources, on international organizations, and, crucially, on the States themselves that hire mercenaries. It is essential not only to actively pursue mercenarism and establish effective mechanisms to regulate its financing but also to demand accountability from States that resort to these practices and allow human rights violations. Expanding legal definitions, closing regulatory gaps, and ensuring accountability are fundamental steps to limiting the impact of these entities.

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