

Committee: Special Political and Decolonization Committee

Issue: The Question of Private Military Companies

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Position: Co-Chair

PERSONAL INTRODUCTION

Dear Delegates,

My name is Ellie Mantziou and it is my pleasure to welcome you all as one of your Chairs to the Political and Decolonization Committee of the 1st ACGMUN. I'm looking forward to the conference in March and I'm excited to see you all emerge in a very fruitful debate.

The topics that will be debated in this committee are both of significant importance, as they can be both described as contemporary. The international community deals with them to this very day and is still struggling to find applicable solutions. Therefore, I would say that these topics will provide the grounds for a very heated debate where both experienced delegates will be able to evolve and first timers will have the chance to experience a very interesting first MUN conference.

This study guide has the aim of providing you with the basic information on the Question of the Private Military Companies. You will find useful data on the background information, the countries and organizations involved as well as relevant actions already taken in order to combat the issue. I personally invite you all to be fully prepared and participate both during lobbying and debate.

View this MUN as a chance to broaden your horizons and act as diplomats in order to create resolutions that tackle all aspects of the issue.

Should any questions arise during your research, please don't hesitate to contact me (elliemantz@gmail.com).

See you all in March!

Sincerely,

Ellie Mantziou

TOPIC INTRODUCTION

Starting from the period of ancient Egypt and the ancient Persian Empire, the use of mercenaries in armed conflicts has been a very frequent phenomenon. This continued until the 20th century, when the “International Convention against the Recruitment, Use, Financing and Training of Mercenaries” banned the aforementioned in 2001. Parallel to the criminalization of the actions of mercenaries, a new phenomenon arose, namely the appearance of private military companies. In the last two decades this type of companies has taken over all the activities traditionally carried out by mercenaries.

One must not omit that mercenaries and private military and security companies (PMSCs) are not the same thing. The former are legally registered transnational corporations that operate by obtaining contracts from governments, private firms, intergovernmental and non-governmental organizations. The PMSCs are businesses that provide training and supplements to armed forces of states, protection of individuals and premises or that take part in armed conflicts. One should consider that many of the superpowers of today’s international arena are voluntarily giving away the constitutional monopoly of the application of force to private, for-profit sectors. One can recognize the critical ongoing status by bearing in mind that the international law is, at the moment, unable to control the operation of the PMSCs. Therefore, it is of tremendous gravity to have a legal framework created and the international community agrees upon a unanimous plan concerning these companies.

DEFINITION OF KEY TERMS

Private Military and Security Company (PMSC)¹

The Montreux Document defines PMSCs as follows:

“PMSCs are private business entities that provide military and/or security services, irrespective of how they describe themselves. Military and security services include, in particular, armed guarding and protection of persons and objects, such as convoys, buildings and other places; maintenance and operation of weapons systems; prisoner detention; and service to or training of local forces and security personnel.”

¹ "The Montreux Document: paragraph 9(a)." *International Committee Of The Red Cross*. ICRC, n.d. Web.

Mercenary

A mercenary is a person who takes part in an armed conflict without being a national or belonging to one of the parties involved or having any ideological interests, with the only motive being the “desire for private gain”.

Plan Colombia

An aid initiative, in military and diplomatic form, taken by the United States with the aim of combating drug cartels and left-wing rebel groups in Colombia.

Enduring Freedom

As stated in the archive of the US Department of State: “Operation Enduring Freedom (OEF) is a multinational coalition military operation initiated in October 2001 to counter terrorism and bring security to Afghanistan in collaboration with Afghan forces. OEF operations led to the collapse of the Taliban regime and helped bring a measure of security and stability to Afghanistan for the first time in a generation.”

BACKGROUND INFORMATION

Historical Background

The practice of employing paid soldiers in armed conflicts marks the period of the early Egyptian empire and the Pharaohs, the Persian Empire and the Chinese. Frankly, it was a very widespread phenomenon from the ancient to the medieval times. The reasons behind that were mainly the fact that the states needed huge armies to defeat their opponents and that the mercenaries provided their employers with much needed expertise on the battlefield. However, until then, we refer to mercenaries. The first PMSCs bloomed during the Cold War. The uncertainty of the states at the time and the many new threats made the weaker states turn to private military companies in order to ensure their security. With the end of the Cold War, the client list of the PMSCs expanded and their duties changed. In the later half of the 20th century they were used to counteract drug trafficking in South America and piracy in Somalia. The most recent use of PMSCs includes those at Iraq in 2003 and Afghanistan in 2001, which were deployed by the US to operate against terrorism.

Types of PMSCs

The private military companies are to be found in four different types:

1. Providers: their role is to offer services such as logistics, intelligence and maintenance to the military forces of states,

2. Consultants: they facilitate the state's military forces with training and strategic advice,
3. Military assistants: they provide direct, organized military assistance, which could also mean fighting at the front line of a battlefield,
4. Security assistants: being mostly armed, they protect from individuals to organizations. Their duties vary from protecting politicians to convoys.

Situations in which PMSCs intervene

Time and again, the Private Military and Security Companies have been involved in armed conflicts where the international organizations have a policy of not intervening. The PMSCs are usually assigned conflicts of low intensity and post conflict zones, either because the armies are not distributed yet or the situation is characterized by high insecurity. They have also been used for cases in which a State was not present and failed to deploy its armed forces.

Lack of legal framework

When dealing with the issue of PMSCs, the international community is confronted with the lack of legislation concerning the matter. The companies' operations, the limitations of their actions, basic principles that need to be followed, are yet to be set by treaties or resolutions, on which all states have agreed in order to implement control over those businesses. As expected, efforts have already been made in order for a common legislation to regulate all PMSCs. Although the international community has come together for a solution, the documents that emerged are not applicable for PMSCs. The "International Convention on the use of Mercenaries", ratified under the Geneva Convention, and the "UN Convention against the Recruitment, Use, Financing and Training of Mercenaries" are not directly dealing with the issue at hand, since both treaties are set on mercenaries, and, therefore, their application cannot be enforced for PMSCs. The Montreux Document, the most recent effort for a regulation, deals directly with the matter unlike the aforementioned treaties on mercenaries. However, it is non-binding, making states not obligated to operate in accordance with it. As of now, the troops of the Private Military and Security Companies are in no way bound to respect the international law of war while performing, as they do not account to a state's government, since they operate under financial terms. With the current situation like this, the creation of an appropriate legislation is a crucial matter. With the increase of PMSCs, the international community is in great need of a series of legislative regulations that should aim at the basic principles of control over the companies.

Commercialization of war

The era of private military companies is associated with a change in the views on war in today's politics. Many examples, like the financial crisis of 2008 deeply affecting the world of politics, are proof that the economy is the biggest factor in determining our society. The same phenomenon is to be observed in war. Military businesses are slowly but steadily taking over the actions that were traditionally undertaken by states' military forces making the army a very successful and profitable business.

Parallel to that, many new concerns are raised. With profit being their only motive, the employees of the PMSCs are completely detached from any ideology that motivates them to take part in armed conflicts. This situation may lead to a lack of morals, which could then result in destructive consequences, for example the violation of fundamental human rights. Countries aren't fighting their wars with their own military anymore. Instead, they hire others to win for them. With this tactic being used more broadly, a new danger comes into view. It's the concern about the willingness of these troops to blur the lines if it serves their purpose. It is often assumed that PMSCs and the governments that hire them are actually synchronizing, namely that they have similar interests. It is the exact opposite that happens, namely the fact that they have conflicting goals. For the former it is their private interest, namely the profit and for the latter the public interest, namely the well being of their people. In recent years, many have started to question the allegiance of these groups. When private military companies are becoming political instruments in aid of a government, a new issue comes to the surface. It's the concern of whether these companies have a policy of their own and if this policy is in sync or in opposition with the welfare of the international community.

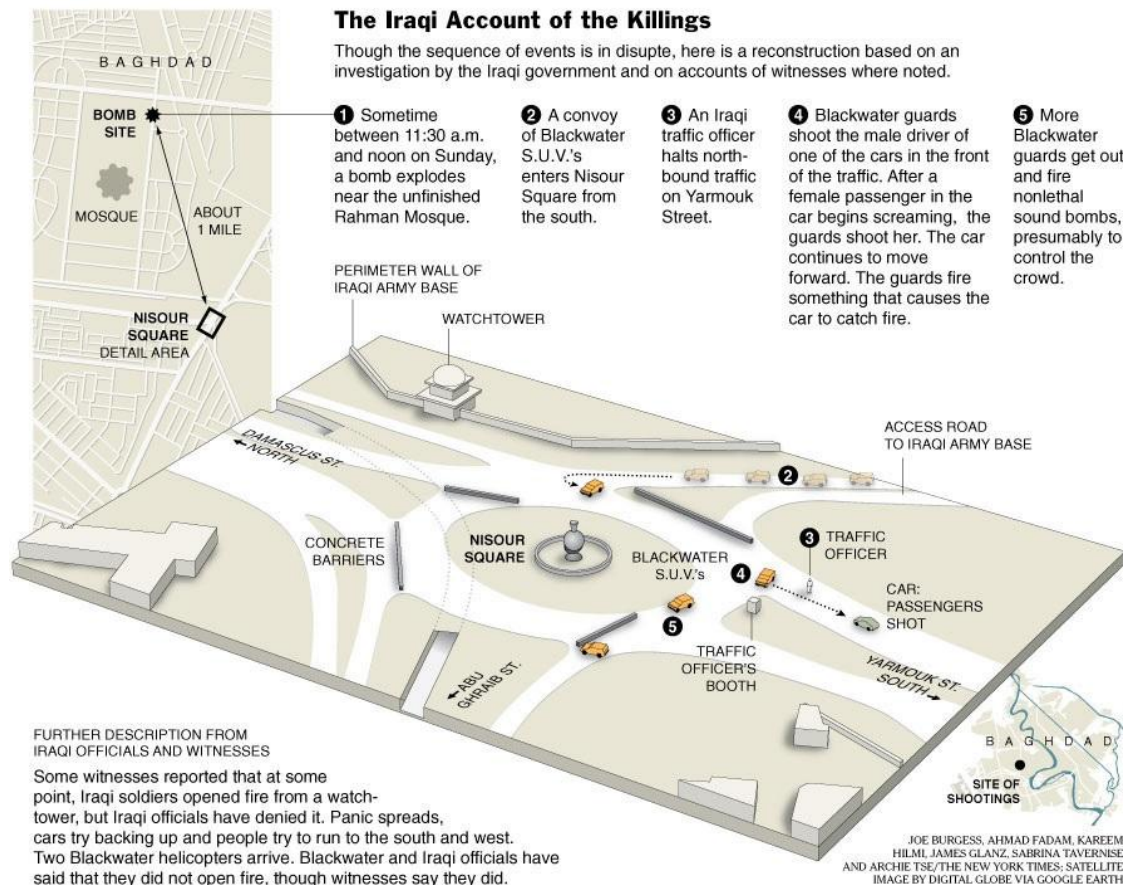
Incidents

As it was mentioned before, the war industry has experienced a growth in size. There are many examples of the actions of PMSCs, both positive and negative ones, which serve as arguments for both sides of the debate. At this point, it must be mentioned that the results of the operations of PMSCs are rather disheartening, as they act uncontrolled. The cases where their actions are resulting to the infringement of basic human rights are not of rare occurrence.

Nisour Square massacre

On September 16, 2007 employees of Blackwater Security Consulting shot and killed 17 civilians, injuring 20 more in Nisour Square, in Baghdad, while they were escorting a convoy of the US embassy. As expected, the story has two sides. The private guards of the company stated that they were confronted with an

ambush and only acted in defense. The Iraqi government, on the other hand, asserted that the killings were unprovoked and unjustified. The US government acted upon these accusations made by the Iraqi officials by taking the company to court 7 years later. The legal battles proved that the Blackwater employees had indeed used unacceptably excessive force and had recklessly killed innocent civilians. One of the guards was sentenced to life, while the others to 30 years in prison. After this incident, the company changed its name to avoid the bad reputation it had gained and is still operating to this very day under the name of Academi.



Abu Ghraib prison

The inhumanity that the Iraqi prisoners experienced in several detention centers is widely known in the international community. After their release many have stated that, apart from the US officials, employees from PMSCs have also taken part in the tortures. Specifically, the companies that proceeded to such actions were “L-3 Services and Titan Corporation” and “CACI International”. The allegations that were made stated that the detainees at the Abu Ghraib prison were subjected to “electric shocks, sexual assaults, being stripped and kept naked, forced to witness the rape of a female prisoner, sensory deprivation, mock executions, stress positions, broken bones, and deprivation of oxygen, food and water as well as other dehumanizing

acts of torture”, as described by Joseph Pugliese in “State Violence and the Execution of Law”. There have been many lawsuits against private military contractors such as *Al Shimari v. CACI*, *Saleh v. Titan* and *Al-Quraishi v. Nakhla and L-3 Services, Inc.*. These claims have, however, been denied multiple times and no progress has been made, as for the case to be prosecuted.

Plan Colombia

Colombia and the US are in cooperation in order to combat drug trafficking. With Plan Colombia, though, a new aspect has been added to this cooperation. The US has decided to contact PMSCs and hire them in order to undertake the actions that the US military was responsible for until that moment. Since then, many scandals originated from the employees of these companies in Colombia. Specifically, in 2004, a video of pornographic content went public in which US contractors were sexually abusing minors in the Colombian base Toleraida. The incident never reached a court.

Another case was the fumigation of coca leaves by the company *DynCorp*. Their actions resulted into a dispute between Colombia and Ecuador, where the latter stated that “Colombia has violated its obligations under international law by causing or allowing the deposit on the territory of Ecuador of toxic herbicides that have caused damage to human health, property and the environment.”, as referred to in the report of the International Court of Justice. At last the two states came to an agreement, with Colombia paying reparations for the damage that was caused.

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

Russian Federation

The Russian Federation is one of the states with traditionally large armies and state-of-the-art weaponry and technology. Therefore, the use of PMSCs was not a widespread phenomenon in Russia, until the recent years. Specifically, Vladimir Putin has commented on these firms saying that they were “a tool for the implementation of national interests without direct participation of the state” (Russian Newspaper Fontanka). He then proceeded to act upon these comments and argued for the legalization and use of PMSCs. Based on these statements, there were rumours about Russia contracting private military businesses for operation both in Ukraine and Syria.

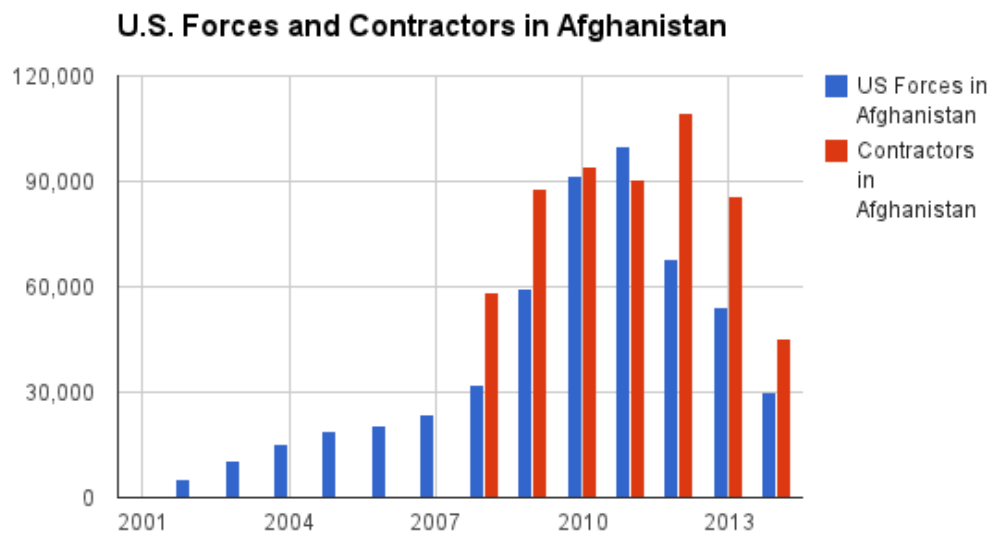
United Kingdom

The UK has a similar policy concerning PMSCs as the USA. It is home to the first private military company ever created, WatchGuard International, and also

home to the largest one, the GS4. The country is not a signatory to the “United Nations Mercenary Convention” but it is one of the 6 governments that have signed the International Code of Conduct for Private Security Service Providers (ICoC).

United States of America

The United States of America is the largest employer of private military companies. It is where the services of the private military sector are both based and consumed, meaning that a majority of them are hired by the US government. The US hasn’t signed the “United Nations Mercenary Convention” or the Montreux Document. It also doesn’t recognize the UN’s classification of PMCs as mercenaries.



The start was made with the hiring of private military contractors for operation “Enduring Freedom” in Afghanistan and Iraq. This war on terrorism set the ground for many more contracts between the USA and the PMSCs. Since the 2015 summer, the number of contractors working for the Defense Department in Iraq doubled from 1,300 to 2,500. With the current situation in Syria, US Defense Secretary Ashton Carter stated that the US is in the procedure of hiring private military contractors for operations in Syria. The US is namely planning for roughly 300 employees of PMSCs to be working alongside the already deployed US troops in Syria, after the defeat of the Islamic State. However, the US is a signatory of the ICoC.

United Nations

The United Nations have made multiple efforts to create a common base, regarding the issue of private military companies, which will regulate their operations. At the same time, the UN has raised many concerns about the involvement of this external factor in armed conflicts as well as the abuse of international humanitarian law that these companies have often been accused of.

Bearing that in mind, it is crucial to refer to the use of PMSCs by the UN itself. The United Nations has chosen to resort to private contractors many times, in order to provide protection to its personnel and facilities. In fact, the Peacekeeping operations of the UN, the organization’s tool for the maintenance of international security and safety, are being carried out by private military firms at a new highest. The UN is often criticized for this strategy.

TIMELINE OF EVENTS

Date	Description of event
4 December 1989	UN International Convention against the Recruitment, Use, Financing and Training of Mercenaries
July 2005	The Working Group on the Use of Mercenaries of the UN Human Rights Council is established with resolution 2005/2
16 September 2007	Nisour Square massacre
17 September 2008	The Montreux Document

RELEVANT RESOLUTIONS, TREATIES AND EVENTS

Montreux Document

The cooperation between the Government of Switzerland and the International Committee of the Red Cross resulted in the creation of the Montreux Document. “The Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict of 17 September 2008” includes a list of obligations the states should have in mind when contracting private military companies. It represents the most recent effort of the international community to create the legal framework concerning these firms. However, it is a non-binding document, meaning that the states have no obligation to sign it, and therefore it cannot regulate all actions of the PMSCs. It counts 17 ratified states with the number continually increasing.

UN Working Group on Mercenaries

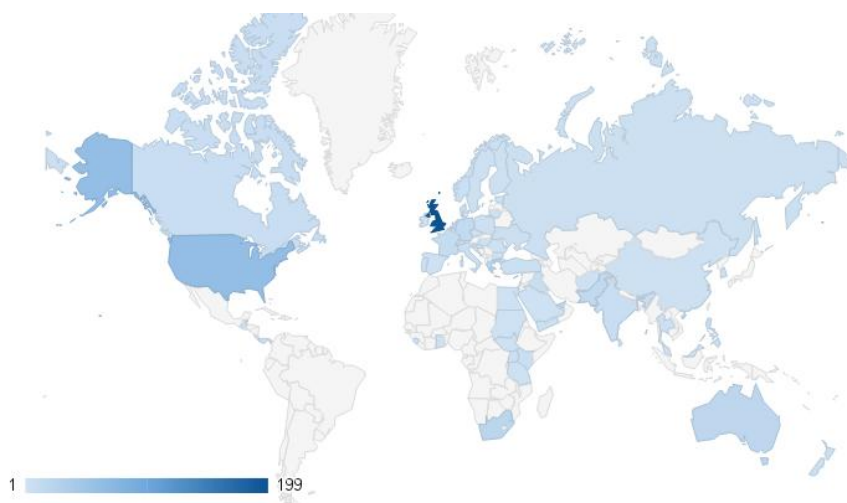
The UN working group on mercenaries was adopted by a UN resolution as one of the 39, in total, special procedures of the UN Human Rights Council. It was created in order to “monitor and study the effects of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights, particularly the right of peoples to self-determination, and to prepare draft international basic principles that encourage respect for human rights on the part of those companies in their activities”(Resolutions and Decisions of the Economic and Social Council 2005: 178).

UN Convention against the Recruitment, Use, Financing and Training of Mercenaries

The UN Mercenary Convention was created as a 1989 resolution by the United Nations but entered into force in 2001. Its aim is to define a mercenary and draw the outlines for the use of the aforementioned.

The International Code of Conduct for Private Security Service Providers (ICoC)

The ICoC is a multi-stakeholder initiative that was established on November 10, 2010. This article counts 730 signatories already that are private military companies. The association of the same name (ICoCA) has 6 governments (Australia, Norway, Sweden, Switzerland, UK, USA), 90 private security companies and 18 civil society organizations (including *humans rights watch*) as members. The association and the article represent another approach to the issue, namely one that focuses more on the companies themselves. This code sets a set of regulations and standards that private military firms should meet so to respect the international humanitarian law. Lastly, the UN takes the aforementioned code into account since it strictly employs PMSCs that are signatories.



#3: Number of ICoC Signatory Company Headquarters per Country. Members of the ICoCA are: Australia, Norway, Sweden, Switzerland, UK, USA ¹

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

The efforts of the international community to set the limits for the actions of private military companies cannot be ignored. Although there have been many tries to efficiently deal with the question of PMSCs, there is still a lot to be done seeing that the global community has yet to find a solution concerning the monitoring of those businesses. The path has already been paved by the already existing documents that have, to a certain degree, shed light to the situation. Parallel to that, many of the great powers of today seem to not be very welcoming of a legislation that will control such firms, as they themselves use them for their military operations. Their position hinders the procedure and functions as an obstacle for the organizations responsible for this. The last step towards progress in this field was made when the Human Rights Council Working Group recommended the creation of a legally binding document that will monitor and regulate all operations of the private military companies in a 2010 report.

POSSIBLE SOLUTIONS

The current situation with the private military firms is a rather concerning one. The field of actions for these companies is momentarily surrounded by thick fog. Therefore, the UN comes to create a solution that will make the existing confusion disappear and will leave no room for negative situations concerning PMSCs in the future. As it is widely understood, the means to do that is by coming to a multilateral agreement. The creation of a document is, for this reason, of great importance. That document will set the basic rules and protocols that need to be respected during the operations of PMSCs. Additionally, it will cover all aspects of the issue, the kind of tasks the employees of these firms will be allowed to execute or the kind of weaponry that will be in order to use, for instance. In this way, a treaty between all nations will eventually control the activity of PMSCs and will fill the existing gap in the legislation. Another very important aspect of the issue is how these companies will be monitored and how they will be placed under the liability of the international law. In order for incidents as the Nisour Square massacre to be avoided, the monitoring of these firms is crucial. Non-governmental or international organizations are capable of undertaking this activity, namely to collect data on the operations of the PMSCs and publish them. With measures as the aforementioned, the evaluation of their actions will be possible and the international community could then act upon them. In the case of a company not meeting certain criteria, the states should decide on the matter of their prosecution, whether such a prosecution will be possible and if yes, then to what extent and with what consequences. Certain

penalties and punishments will have to be decided for the case of a possible violation of basic principles. Last but not least, another side of the issue that has to be approached is the relationship between the states and the PMSCs. Strict laws have to be created that will deal with the government-businesses' affairs. This framework will set some criteria that a company has to meet in order to be employed by a state. By doing so, the states will make sure that their military employees will respect fundamental human rights and freedoms and will act in accordance with the state's policy and with international humanitarian law.

BIBLIOGRAPHY

"National Regulatory Frameworks on PMSCs." National Regulatory Frameworks on PMSCs. N.p., n.d. Web. 29 Jan. 2017.

Administrator. "Global Policy Forum." PMSCs in Iraq. N.p., n.d. Web. 29 Jan. 2017.

"Postscript." Religion, Empire, and Torture (n.d.): 97-108. Web.

"Privatising the War on Drugs: PMSCs in Colombia and Mexico." Sustainable Security. N.p., 09 Mar. 2016. Web. 29 Jan. 2017.

From Mercenaries to Market: The Rise and Regulation of Private Military Companies (Introduction) by Simon Chesterman, Chia Lehnardt :: SSRN

Singer, Peter W. "Outsourcing War." Brookings. Brookings, 28 July 2016. Web. 29 Jan. 2017.

Administrator. "Global Policy Forum." PMSCs in Africa. N.p., n.d. Web. 29 Jan. 2017.

"List of Private Military Contractors." Wikipedia. Wikimedia Foundation, n.d. Web. 29 Jan. 2017.

"Private Military Contractors Fighting US Wars." Strategic-Culture.org - Strategic Culture Foundation. N.p., n.d. Web. 29 Jan. 2017.

The Montreux Document on Private Military and Security Companies." International Committee of the Red Cross. N.p., 21 Oct. 2016. Web. 29 Jan. 2017.

"International Humanitarian Law and Private Military/security Companies - FAQ." International Committee of the Red Cross. N.p., 10 Dec. 2013. Web. 29 Jan. 2017.

Pike, John. "Military." Mercenary / Private Military Companies (PMCs). N.p., n.d. Web. 29 Jan. 2017.

Administrator. "Global Policy Forum." *Private Military & Security Companies (PMSCs)*. N.p., n.d. Web. 29 Jan. 2017.

Administrator. "Global Policy Forum." *Countries in Which PMSCs Operate*. N.p., n.d. Web. 29 Jan. 2017.

Administrator. "Global Policy Forum." *PMSCs & the UN*. N.p., n.d. Web. 29 Jan. 2017.

"Definition of Private Military Companies (contractors, Firms) or PMCs - Definition of Private Military and Security Companies or PMSCs - Academic / Professional / Legal Definition-What Are Private Military Companies?" *Definition of Private Military Companies (contractors, Firms) or PMCs - Definition of Private Military and Security Companies or PMSCs - Academic / Professional / Legal Definition-What Are Private Military Companies?* N.p., n.d. Web. 29 Jan. 2017.

"Mercenary." Wikipedia. Wikimedia Foundation, n.d. Web. 29 Jan. 2017.

"Crimes of War." *Crimes of War – Private Military Firms*. N.p., n.d. Web. 29 Jan. 2017.

"National Legislation Survey." *National Legislation Survey*. N.p., n.d. Web. 29 Jan. 2017.

"The ICoC Association | ICoCA - International Code of Conduct Association." *The ICoC Association | ICoCA - International Code of Conduct Association*. N.p., n.d. Web. 29 Jan. 2017.

"International Code of Conduct for Private Security Service Providers." Wikipedia. Wikimedia Foundation, n.d. Web. 29 Jan. 2017.

"Russian Federation: Regulating Private Military and Security Companies." *International Committee of the Red Cross*. N.p., 02 June 2016. Web. 29 Jan. 2017.

Isenberg, David. "UN Use of PMSC? It's a Reality, Not a Hypothetical." *The Huffington Post*. *TheHuffingtonPost.com*, n.d. Web. 29 Jan. 2017.

"Robust UN Peacekeeping and Private Military and Security Companies." *Human Security Centre*. N.p., 09 May 2015. Web. 29 Jan. 2017.

Gómez, Del Prado José L. "Private Military and Security Companies and the UN Working Group on the Use of Mercenaries." *Journal of Conflict and Security Law | Oxford Academic*. Oxford University Press, 01 Dec. 2008. Web. 29 Jan. 2017.

The Telegraph. Telegraph Media Group, n.d. Web. 29 Jan. 2017.

Norton-Taylor, Richard. "Britain Is at Centre of Global Mercenary Industry, Says Charity." *The Guardian*. *Guardian News and Media*, 03 Feb. 2016. Web. 29 Jan. 2017.

