

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 4

2021

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Intervention of Russian Private Military Forces in the Conflicts of 21st Century

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ABSTRACT

As long as there are Sovereign Nations Possessing great power, War is Inevitable.

-By Albert Einstein.

War has been a gravitating concern since time immemorial. States are more fascinated to privatize the essentials, and War is one among them. Among the Sovereign States, Russia has never failed to remain in limelight. Russia extends its Private Military Contractors (PMCs) in disputes in the post-Soviet space as well as in the Middle East and North Africa places where it has political and economic interests. Hence, Russia's Military influence has been spread worldwide. So, without much delving into the history of privatization of war in the State, the Authors wish to play up with the exercise as to how the above State runs the business of War followed by the laws or the rules it adheres to, its Private Military Contractors in state policy and its participation in war.

Thousands of Russian private Military contractors are fighting overseas and getting assassinated but anyone could hardly find their name in defence ministry of Russia or in any official record. It is totally undisclosed. The growing intervention of Russian Private Military Force (RPMF) is increasing threat to international humanitarian law. Hence in this part the authors will discuss some notable intervention by RPMF in some deadliest conflict of 21st century. In there the authors will further elucidate the role of RPMF in Syrian Civil war, Ukraine conflict, intervention in Africa and in most contemporary conflict of Nagorno-Karabakh and the consequences. In the second part, the authors will try to throw a light on the legal status of those private mercenaries with respect to international law and Russian Municipal Law. Lastly the authors will finish the article with the discussion of challenges associated to private mercenaries and authors' perspective towards this.

Keywords: *Privatized War, Humanitarian Intervention, Private Military Contractors, State Policy, Mercenaries.*

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I. INTRODUCTION

The world is witnessing a drastic change in the means and methods of warfare since past few decades. The conventional method of war had changed, and countries are making use of upgraded ways for participating in the war and use of Private Military forces are one of crucial way among those. Parties to an arm conflict are recruiting private military companies to carry out the task of traditional arm forces of a state. Countries are rapidly transferring their military operations to the Private Military Companies (PMCs) which decreases their accountability towards the hostility. And the growing use of PMCs has become a concern for the human rights experts.

Sometimes countries use PMCs as the proxies to a conflict from where they gain huge interest. Russia being one of those noticeable faces in any international conflict has not also failed to adopt this method. Over the last few decades the Russian PMCs have appeared in various world conflicts. During the 90s Russia has witnessed huge phenomena of outsourcing the military forces, which increased the participation of Russian local militias, volunteers, criminal actors and other non-state actors in conflict. Ever since then Russian PMCs had evolved worldwide and has revealed their participation.

In this article the authors will primarily give emphasis to the growth and the evolution of the Russian PMCs and how Russian private security firms are engaging in several conflicts in recent time. Then the authors would focus on one of the most apprehensive area of humanitarian law that is the legality of the PMCs. Further the authors would try to elucidate Russian stance in this regard and how it is carrying out its obligation towards the international humanitarian law.

II. EVOLUTION OF PRIVATE MILITARY COMPANIES AND THEIR STRATEGY

Russian private military companies (PMCs) have been quite famous in the west for over the last decade. It has been believed that it has a connection with the Russian Government as well as other non-state actors³. The collapse of USSR has resulted, an increase in the unemployment of many intelligence professionals, members of Special Forces, former soldiers. And during 1990s, Russia encountered a significant demand for security services which provided employment to many soldiers, hence forming private protection industry. Despite of numerous attempts, Russia failed in providing the PMCs a legal status, and they were proscribed from engaging in armed conflicts in abroad. As the PMCs had closed connections with Ministry of

³ Anna Borshchevskaya, "Russian private military companies- continuity and evolution of model", Dec, 2019, <https://www.washingtoninstitute.org/media/816?disposition=attachment>(Last accessed on 10th February, 2021)

Defence, they trained and protected various private firms that included some anti-piracy services as well. It encouraged the evolution of PMCs⁴ and they were directly engaged in combat services. The competency of Russian PMCs varied in conflicts. Some appeared to be highly experienced and while some did not reach to the mark and were paid less. Specific operations were then handled by the professionals. Gradually with the development and expansion of the PMCs, they were scheduled under domestical forces as well as international, like Hong Kong and Cyprus. One of the most prominent PMCs is Wagner Group which was apparently endowed by business man Yevgeny Prihozin. The PMCs had an uncommon nature i.e., it merged the private and Russian state interests together. Initially, it used the forces in invasion of Ukraine and intervened in Syria. With the passage of time and changing need it chased for more profit-oriented opportunities which were unattached or less attached with their state foreign policy purpose. The development of PMCs is linked with the evolvement of Russian military doctrine and strategy followed by the importance of non-state actors in conflict. It shows that Russia depends largely on its PMCs which consist of non-state actors which are operating around the globe and according to the direction of Russia's president Vladimir Putin⁵. Modern conflicts require modern solution. The state uses the PMCs prior the conflict, which helps it to encourage cost effective strategy, as well as ensures speedy and flexible conduct and works for the welfare of the state. The perks of using PMCs are it is flexible which operates on short notice, government benefits as it has less military losses, requires less management, and economical than conventional forces. They have easy withdrawal of conduct, and it has seen a rapid development in fewer spans of time. Kremlin's growing inclination towards the utilisation of military contractors has been witnessed in various military actions in African conflict areas. Some of the well-known instances are witnessed in Libya, Sudan, Central African Republic. The unique feature of Russian PMSCs is unrepeated to the other western peer is the word "private" which does not compliment to their activities, rather it is a combination of private and government interests i.e., correlative relationship. The same has been certified by US Department of Treasury, and has named the it as proxy force. The connection between Kremlin and Russian military contractors has been observed in their continuous congruent interests and diplomatic partnership. This is clearly evident in Syria incident. The link is further nourished by some leaders of Russian PMSCs by their personal reach to the Russian high-level government officials and thus, leading to the development of

⁴ Russian private military companies, Congressional Research service, (Last accessed on 10th February, 2021), <https://fas.org/sgp/crs/row/IF11650.pdf>,

⁵ Oliver Carroll, "Vladimir Putin says all big Russian businesses should be ready for war production", (Last accessed on 10th February, 2021) <https://www.independent.co.uk/news/world/europe/vladimir-putin-russia-business-war-production-sochi-military-talks-a8069951.html>

strategy.

III. USE OF RUSSIAN PRIVATE MILITARY FORCES – A CONTEMPORARY CASE STUDY

Through various ongoing conflict of the 21st century the Russian Private Military Companies have managed to attract the spotlight of the world on itself. The Russian PMCs have been suspected to be in operation across middle-east, Africa, Central Europe and elsewhere. Human Rights experts have been criticizing the use of PMCs in conflict zones even since gross violation of human rights by the PMCs have been reported in Iraq.⁶ Russia mostly uses its private military forces where it has significant political and economic interest, and in post-soviet space. In this segment the authors are going to discuss both the circumstances.

Syrian civil war is one of the most notable conflicts of the 21st century especially because of the multi-party involvement from all over the world. Deployment of the Russian PMC in Syria during early 2013 is considered as one of the contemporary uses of PMC by Russia, even before the formal intervention by the Russian Federation during 2015.⁷ The Russian media covering this issue highlighted the fact that some of the members of PMC had prior military experience and most of them had no particular training prior to mission in Syria, only some basic arm training. The evidence of direct involvement was established by the media. The PMCs predominantly served menacing tasks in the front line which includes coordination and movement of fire, forward air controls etc. The credible reason behind involvement of Russian PMCs in the Syrian Civil War is to downplay the original death rate of the official Military of the Russian Federation. This is a policy to motivate international political sensitivity.

On the other hand, there is no direct credible evidence of participation of Russian PMCs during the invasion of the Crimean Peninsula, Ukraine by the Russian Federation. But several open sources pointed out the interaction of the Wagner group.⁸ In contradiction, a commander of the Wagner group in an interview accepted the fact of their involvement with the separatist group in the Donbas region during the Ukrainian crisis. The PMCs have also ruthlessly participated in high risk operations including the first wave of attack in population centres, shooting down of Ukrainian aircraft, anti-air strikes, supporting pro-Russian rebel leaders and the factories with high level military efficiency.⁹ And these Russian Proxy forces in Ukraine were

⁶ The Role of the EU in Assuring Compliance with International Humanitarian Law and Human Rights, Regulating the Privatization of 'War', European University Institute, (Last accessed on 18th February, 2021, 11:00 am), <https://www.eui.eu/DepartmentsAndCentres/AcademyEuropeanLaw/Projects/PrivatisationWar>

⁷ Russian Private Military Companies, Their use and how to consider them in operations, competition, and conflict, John Hopkins Applied Physics Laboratory; Published on April 2020

⁸ Sergey Sukhankin, Russian Special Operations Forces: Image Versus Substance, Eurasia Daily Monitor Volume: 16, Issue: 43, (Last accessed on 18th February, 2021, 11:00 am) <https://jamestown.org/program/russian-special-operations-forces-image-versus-substance/>

⁹ Interfax-Ukraine, Hrytsak: SBU uncovers involvement of Russian 'Wagner PMC' in destroying Il-76 in Donbas,

largely dependent upon the formal military troupe for their equipment and maintenance.

Unlike Ukraine, in Sudan the presence of Russian PMCs were totally for the support of the ex-Sudanese President Omar al-Bashir against the military coup d'état. During Bashir's regime prior to 2019 Sudan and Russia shared a good cooperative relation. Even after the overthrowing of Omar-Al Bashir the Russian lawmaker heavily criticize the act by Sudanese military. Initially the Russian PMCs were involved in Sudan for training the Sudanese Military, Special operation forces and the National Intelligence and Security Service. Some reports also alleged that Russian forces acted as the Sudanese military adviser during the Bashir era. But from December 2018 onwards Russian PMCs played an active role in suppression of the anti-Bashir protesters. They also allegedly relished a huge amount of wealth from the mines in Sudan during the protest era.¹⁰ Therefore, the fact that can be ascertain that the friendliness between Sudan and Russian federation, including the economic and security assistance from Russia, helped the PMCs to make their root stronger in Sudan.¹¹

IV. LEGITIMACY OF THE PMCS UNDER INTERNATIONAL LAW

International Humanitarian Law nowhere has defined the concept of quasi-combatant. Customary International Humanitarian Law only distinguished between a Combatant and a Non-combatant. The Additional Protocol 1 to the Geneva Convention 1949 on article 43(1) states who all are categorized as combatants during hostilities. Therefore except from that all other person who will found themselves during the situation of atrocity will be considered as civilians. Article 50 of the Additional protocol I of 1977 provides the definition of a civilian population. According to which any person who is not a member of the arm forces of any of the parties to the arm conflict should be considered as a civilian. So, if the PMCs do not take part in the hostilities directly, they shall be considered under the category of Civilians. Direct participation in the hostilities does not restrict someone to carry arm in the conflict zone. The commentary on the additional protocol I of 1977 provides that "direct participation means acts of war which by their nature or purpose are likely to cause actual harm to the personnel and equipment of the enemy armed forces." So, if the private military contractors are simply present in the conflict zone with arms in possession that does not amount to direct participation. It brings the PMCs under the protection given to the civilians by the International Humanitarian Law (IHL).

Debaltseve events, Kyiv Post, (Last accessed on 18th February, 2021, 11:00 am) <https://www.kyivpost.com/ukraine-politics/hrytsak-sbu-uncovers-involvement-russian-wagner-pmc-destroying-il-76-donbas-debaltseve-events.html?cn-reloaded=1>

¹⁰ Supra Note 4

¹¹ Supra Note 4

When over the past decades the phenomena of involving Private Military forces in the conflict zone started to increase, the need of an international instrument was need of the hour to regulate this. Then 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, 2008 was signed among the countries which includes recommendation to the state parties for proper regulation of the Private military force. Most of the western countries have ratified the agreement of 2008, but not Russia. The reason given by the Legal division of Russian Ministry of Foreign Affairs was, "Under Russian law, it is not possible to set up a PMC or use one abroad. Russia is not taking part in the Montreux process, as we rarely use PMSCs and the process primarily brings together States that do."¹² IHL does not direct the procedure to be registered under armed forces, as according to Article 4A (1) of the Third Geneva Convention and Article 43 of Protocol I, it states that it is the matter of internal law and Russian law does not allow it. To answer the question that are employees of private companies be considered as machinery is- it has to fulfill all the six criteria laid down in Article 47 of Protocol I¹³ which defines Machinery. As it does not fulfill one of the criteria that is "specially recruited locally or abroad in order to fight in an armed conflict", they cannot be considered as Machinery. In Montreux document, it has been stated that States which are non-signatory shall abide by the rules of IHL, as well as implement in their legislation¹⁴. The rule is to execute it and prosecute, punish those who violate international human rights law as well as Geneva Convention. The trial shall be according to International law. And it's very evident that Russia does not follow the guidelines.

V. CONCLUSION

From above facts and circumstances, it is well inferred that Private military companies (PMCs) are criticized by some as well as appreciated by some by giving it a position of peace keeping force. According to UN Assistant Secretary General for peace keeping operations the responsibility to protect should be with the state but not with companies. There can be no business in war, as for the sake of profit-making, people's life cannot be compromised. Armed conflict is not a time to pursue company's ambitions. The government officials of Russia have

¹² Russian Federation: Regulating private military and security companies, International Committee of Red Cross, Last accessed on 04/03/2021, 11:30 p.m, <https://www.icrc.org/en/document/russian-federation-regulating-private-military-security-companies>

¹³ Alexandre Faite, "Involvement of Private Contractors in Armed Conflict: Implications under International Humanitarian Law", International Committee of the Red Cross, Last accessed on 04/03/2021 <https://www.icrc.org/en/doc/assets/files/other/pmc-article-a-faite.pdf>

¹⁴ Louise Doswald-Beck, Private military companies under international humanitarian law, Last accessed on 04/03/2021, https://lapa.princeton.edu/conferences/military07/restricted/doswald-beck_military07.pdf

completely denied the presence of Russian PMCs in oversea conflict, but through international media and several reports of humanitarian organizations their existence is apparent. As Russia is not a ratifying state of the Montevideo Agreement so it doesn't carry out its obligation regarding the private military companies. Because of these Lacunas a gross violation of international humanitarian law and several war crimes happen by PMC's involvement. In addition to that the dicey situation regarding the legal status of the PMCs in various countries is making it a complex topic to address in the international platform. And these issues are going unnoticed by various international platforms. It may create problem in a later phase in the state as well as may breach international peace and harmony. As international humanitarian law suggests, PMCs are considered as civilians and there is no such concept of quasi- combatant, there is a threat to civilians as they can be the assumed as military objects. Russian government should take steps to protect them. Regulation shall be effective if the PMCs hold a legal and legitimate identity.
