



Major Allen Peters

Private Security Agencies: The Good, the Bad and the Ugly

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Exercise Solo Flight

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PRIVATE SECURITY AGENCIES : THE GOOD, THE BAD AND THE UGLY INTRODUCTION

Since the turn of the century, there has been a significant increase in the use of Private Security Agencies (PSA) by multiple nation-states in various conflicts. While it may appear that PSAs are an appropriate substitute for conventional forces and / or the way ahead in future conflicts, evidence suggests the opposite. While useful in some ways, the negative aspects of PSAs suggest that they should not be heavily relied upon by the Canadian Armed Forces (CAF) or the Government of Canada (GoC) as a supplement for conventional armed forces.

DEFINITIONS

There is some confusion on what exactly is a PSA. Generally, a PSA is referred to as a Private Military Company (PMC), Private Security Company (PSC) or a Private Military and Security Company (PMSC).² Other sources suggest that a PMC is a for-hire military contractor company that provides combat-type services while PSCs are only for security of a single static location.³ The United Nations (UN) defines a PMSC as a corporate entity that provides on a compensatory basis a wide range of military and / or security services.⁴ For the purposes of this paper, the term PSA will be utilized as an all-encompassing term for PMCs, PSCs and PMSCs. Also, not all private military corporations provide combat or security as some provide support type services.⁵ This paper will only concentrate on entities that provide combat or security services, as these are the main areas were the overlap between PSAs and conventional armed

Wojciech Palka. The Awakening of Private Military Companies. Warsaw Institute. 20 August 2020, 2.

² Private Military.Org. "What is a Private Security or Military Company?" Last accessed 16 April 2022. http://www.privatemilitary.org/what is a private security or military company.html#.YltDBOjMKUk.

³ Cortney Weinbaum. "China's Security Contractors have avoided the fate of Russia's Military Contractors, so far." RAND Corporation. Last modified 11 March 2022. https://www.rand.org/blog/2022/03/chinas-security-contractors-have-avoided-the-fate-of.html.

⁴ RAND Corporation. "In Focus: Private Military and Security Companies Newsletter." April 2022. https://www.rand.org/nsrd/projects/russian-arms-sales-and-sanctions-compliance/pmc-newsletter.html.

⁵ Seth G. Jones. *Russia's Corporate Soldiers: The Global Expansion of Russia's Private Military Companies*. Center for Strategic and International Studies. July 2021,

forces are the most noticeable and generate the most discussion.⁶

Further, media regularly refers to PSAs as mercenaries but there is a distinction between the two as PSAs are recognized private corporate entities that hire contractors and are registered with the authorities of a country where their operations are based out of.⁷ On the other hand, mercenaries are individual soldiers hired by whoever pays them and do not possess any bond to a company or nation.⁸ As well, PSA are considered legal but mercenaries are prohibited by the Geneva Convention and the 1989 UN International Convention against the Recruitment, Use, Financing and Training of Mercenaries.⁹ As such, this paper will only concentrate on PSA usage and not on the employment of mercenaries.

HISTORICAL OVERVIEW

The use of private soldiers is almost as old as recorded warfare itself with ancient empires hiring foreign nationals to augment their own forces. ¹⁰ The formation of the modern PSA started in the 1960s when the founder of the British Special Air Service, Lieutenant-Colonel David Stirling, organized a group of ex-British servicemen to train the military forces of Yemen. ¹¹ British PSAs would continue to train Middle Eastern militaries during the 1970s and 1980s, but PSAs really came into their own during the 1990s with the formation of Executive Outcomes by ex-South African soldiers. This PSA would be instrumental in supporting the government forces of Angola and Sierra Leone against rebel groups during the 1990s. ¹² For

⁶ Palka. The Awakening of Private Military Companies, 2.

⁷ TRT World. "Are private military contractors any different from mercenaries?" Last modified 16 October 2018. <a href="https://www.trtworld.com/americas/are-private-military-contractors-any-different-from-mercenaries-20680#:~:text=Both%20private%20military%20contractors%20(PMC,they%20only%20fight%20for%20money." ** Ibid.**

⁹ Ibid.

¹⁰ Wikipedia, "Mercenary," Last modified 25 May 2022, https://en.wikipedia.org/wiki/Mercenary.

¹¹ Anthony Rogers. *Soldiers of Fortune: Mercenaries and Military Adventurers, 1960-2020.* Osprey Publishing. March 2022, 50-51

¹² *Ibid*, 51-53.

Western nations, the demand for PSA services would significantly increase during the War on Terror and military operations in Afghanistan and Iraq from October 2001 to present.¹³

WHY PSA USAGE HAS INCREASED

While the employment of PSAs by Western states has increased since the turn of this century, the origins of this can be traced back to the end of the Cold War. With the end of the Cold War and removal of the threat of the Soviet Union, many Western governments perceived a 'peace dividend' whereby they could realize public savings through the reduction of military forces and, therefore, many of these states undertook large-scale reductions in their military forces in both personnel and assets. ¹⁴ For example, the CAF during the 1990s reduced its personnel strength by 32 percent from nearly 89,000 to approximately 60,000. 15 The United States (US) military suffered a 30 percent reduction of 600,000 personnel during a similar timefrrame. 16 However, this 'peace dividend' did not last as conflict, even though at a smaller scale, increased after the Cold War as intra-state and intra-regional issues rose since multiple states were no longer under the influence of the two Superpowers.¹⁷ The War on Terror would result in a demand for more security forces but, as most Western nations no longer possessed large numbers of military personnel, another solution to make up for manpower would have to be adopted. This would come in the form of heavy reliance on PSAs. 18 With so many recently released ex-military personnel, PSAs had a large pool of recruits to draw from.¹⁹

¹³ Andreas Krieg. *The UAE's 'dogs of war': boosting a small state's regional power projection.* Small Wars & Insurgencies (volume 33: 1-2), 156

¹⁴ LCol D.A. Warner. "Private Military and Security Companies and the State Wrestling for the Control of Violence." CSP 35, 2008-2009, Master of Defence Studies, 5

¹⁵ Department of National Defence, Chief of Review Services Audit of Force Reduction Program, (Ottawa: Director General Audit, 1997).

¹⁶ Warner. "Private Military and Security Companies."..., 23.

¹⁷ *Ibid*, 6,

¹⁸ Rogers. Soldiers of Fortune. . ., 55.

¹⁹ Warner. "Private Military and Security Companies."..., 7.

The increased employment of PSAs has not been limited to the Western nations as other states in the past 10 year or so have also enlarged their usage of these organizations for various reasons. The United Arab Emirates (UAE) has used PSAs in regional conflicts in Libya, Somalia and Yemen.²⁰ The main reason for this is that the UAE is a small state with limited military manpower, however it does possess significant financial resources that it translates into military capacity by deploying PSAs to regional troublespots.²¹ Much like the UAE, Turkey has also employed PSAs into some of the aforementioned nations due to regional interests. For Turkey, PSAs are a means for it to discreetly increase its influence while the Turkish government maintains plausible deniability of any of its PSAs controversial actions.²²

Two other major employers of PSAs this past decade are China and Russia. Both countries have increasingly utilized PSAs to inconspicuously extend their respective influence at low military and political cost; especially as Chinese / Russian PSAs are more susceptible to national influence and pressure from their autocratic governments than PSAs are in Western democracies. Further as Russia, and one could suggest China, are currently not configured to be a global expeditionary military like the United States the employment of PSAs is a feasible method to project military force abroad. As an example, Russian PSAs supporting the October 2021 military coup in Sudan were instrumental for Russia in negotiating a naval base agreement with the new Sudanese leadership.

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²⁰ Krieg. The UAE's 'dogs of war..., 153.

²¹ *Ibid*, 154.

²² War on the Rocks. "Making Sense of SADAT, Turkey's Private Military Company." Last modified 8 October 2021. https://warontherocks.com/2021/10/making-sense-of-sadat-turkeys-private-military-company/.

²³ Buzz. "Warner Group: Russia's shadowy mercenary unit explained." Last modified 7 March 2022. https://www.buzz.ie/news/world-news/wagner-group-russias-shadowy-mercenary-26405440.

²⁴ RAND Corporation. *The Future of the Russian Military: Russia's Ground Combat capabilities and implications for U.S.-Russia competition*. 2019, xvi.

²⁵ Africa Defense Forum. "Wagner Group continues to exert Russian influence in Africa." Last modified 12 January 2022. https://adf-magazine.com/2022/01/wagner-group-continues-to-exert-russian-influence-in-africa/.

THE APPEAL OF PSA

There are a variety of factors that make PSAs so appealing for states that employ them despite their high costs. Nations have relied on PSAs to compensate for lack of sufficient conventional forces, or as a discreet way to extend influence abroad, but there are other reasons. First, using PSAs in place of militaries avoids the public stigma of casualties as private contractors normally do not factor into a state's official casualty counts. For example, in 2008, it was reported that over 4,600 US service members had died in Afghanistan and Iraq since 2001. What was not reported was that 1,350 PSA contractors had been killed during that same period in support of American operations in those two countries.²⁶

PSAs may be utilized by the employing nation for more mundane security tasks that free up its conventional forces for other operations.²⁷ During its 13-year mission in Afghanistan, Canada deployed PSAs to perform security tasks that would have otherwise stretched the CAF's already heavily committed forces thin.²⁸ These tasks included providing security for the Dahla Dam, Canada's signature aid project in Afghanistan, as well as guarding the Canadian Embassy in Kabul and Canadian military infrastructure in the country.²⁹

An advantage PSAs possess over conventional forces is that the employing government is not responsible for pensions, medical care, or benefits (such as costs related to casualties) as they would be for their own armed forces. Further, the PSA and not the state is responsible for training, managing, transporting, feeding, pay and redeployment once the contract is over.³⁰

²⁶ Warner. "Private Military and Security Companies."..., 31.

²⁷ Rogers. Soldiers of Fortune..., 61.

²⁸ Yves Engler. "Canadian Private Security Companies have wreaked havoc in Afghanistan." *Jacobin*. Last modified 10 September 2021. https://jacobinmag.com/2021/10/canadian-private-security-military-contractor-companies-afghanistan-war-mercenaries-david-lavery.

³⁰ Peter J. Wooley, review of *Licensed to Kill: Hired Guns in the War on Terror* by Robert Young Pelton, *The Common Review*, volume 5 (number 4: 2007): 47.

For many African nations the hiring of PSAs is required for regime survival as their national security forces are not properly trained and equipped to combat domestic insurgencies.³¹ Even though various African states possess limited financial resources, their inability to resolve local conflicts internally results in several of them paying high fees for PSA services that they cannot afford. For example, US Africa Command (AFRICOM) estimates that the ruling junta of Mali is paying the Russian Wagner Group PSA \$10 million USD a month for its services.³²

THE PROBLEMS WITH PSA AND POTENTIAL IMPACT ON CAF OPERATIONS

Although there are several aspects that would appear to make PSAs an enticing option for governments, there are multiple negative aspects of PSAs that should be considered by the GoC. First, the government, and not the military, signs a contract with a PSA even if it is in support of military operations. While not directly involved in contracting PSAs, their employment by the GoC carries potential negative consequences that CAF commanders and staff have to take into consideration. For example, CAF commanders do not maintain direct control over contractors and cannot give them binding orders.³³ During Canada's mission to Afghanistan, it was noted by joint staff that this lack of direct control resulted in constant and time-consuming negotiations with PSAs and other private contractors.³⁴

There are also numerous legal aspects involved when utilizing PSAs. As previously mentioned, PSAs are not considered mercenaries under international law, but there are aspects of

³¹ Institute for Strategic Studies. "Mercenaries and private military security: Africa's thin grey line." Last modified 1 December 2021. https://issafrica.org/pscreport/psc-insights/africas-thin-grey-line-between-private-military-security-and-mercenaries.

³² France 24. "Macron wars of 'predatory' Russian mercenaries in Mali." Last modified 17 February 2022. https://www.france24.com/en/live-news/20220217-macron-warns-of-predatory-russian-mercenaries-in-mali.

³³ Alexander Kees. "Regulation of Private Military Companies." *Goettingen Journal of International Law*, volume 3 (2011): 203-204.

³⁴ David A. Norys and Joshua Matthewman. "Corporate Allies: Canadian Armed Forces and the use of Private Military, Security and Logistic Companies." *Canadian Army Journal* (Spring 2016): 100

PSAs that are legally ambiguous and the cause of significant debate on the status of PSAs as lawful combatants.³⁵ Even though PSAs often contract former military members, they are still considered civilians under the Geneva Convention as they are not a part of a recognized armed force. However, if any PSA contractor directly participates in hostilities, they lose their protective status as civilians under Article 51, Protocol I to the Geneva Convention.³⁶ Confusing matters even further is that the definition of direct participation in hostilities is less clear as security / support functions and combat operations can blur. For example, PSAs may be contracted to use deadly force to protect assets and persons. According to US Army regulations, these security services do not constitute governmental functions that may lead to the direct participation in hostilities, but this is not internationally recognized.³⁷

Currently, there are no international legal articles regarding PSAs. While the UN has a convention against the use of mercenaries, as does the Geneva Convention, these documents are directed towards individual mercenaries are not PSAs.³⁸ Although the 2008 Montreux Document is the only international attempt to regulate PSAs, it is considered 'soft law' as it is voluntary for states and PSAs to sign and maintains no legal obligations or liabilities for PSAs.³⁹ With limited international regulations regarding PSAs Canada, or any other state using these organizations, could be considered responsible for any violations of international law conducted by PSAs that are employed by the state on operations.⁴⁰

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³⁵ Kees. "Regulation of Private Military Companies." 200.

³⁶ *Ibid*: 204.

³⁷ Ibid: 205.

³⁸ Berenkie Prem. "The regulation of private military and security companies: Analyzing power in multi-stakeholder initiatives." *Contemporary Security Policy*, volume 42 (issue 3, 2021): 353.

⁴⁰ Kees. "Regulation of Private Military Companies." 204.

This lack of international regulations on PSAs has resulted in some states forming their own protocols to regulate nationally based PSAs. In 2012, the US developed policies and an international code of conduct for PSAs that the American government hires. ⁴¹ These policies were a direct result of experiences during the War on Terror where several incidents involving American PSAs, most infamously the Blackwater PSA, that resulted in civilian casualties created significant negative publicity that required the US government to regulate its PSAs. ⁴² However, while a signatory of the Montreux Document, Canada currently does not possess regulations constraining the use of Canadian PSAs on international operations, thus the GoC is leaving itself open to being deemed legally responsible for any negative actions conducted by PSAs that are supporting CAF overseas missions. ⁴³

Another negative issue with PSAs is that they may employ contractors that do not possess the necessary skill or experience to be effective and, therefore, could be a detriment to CAF operations. At the start of the War on Terror, PSAs routinely employed former Special Forces personnel that made PSAs highly sought after. However, as the war progressed and the demand for PSAs increased, these corporations started to compete with each other for contracts and began to lower their prices to undercut rival PSAs. As a result, many contractors resigned and refused to work lower wages for highly dangerous work. To compensate, PSAs became more reliant on hiring nationals with limited military experience, or locals and other nationalities to whom the reduced pay would still appear to be a considerable sum. While these hiring policies permitted PSAs to continue providing support to coalition forces, the overall quality declined.

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⁴¹ Christopher R. Spearin. "Russia's Military and Security Privatization." *US Army War College Quarterly: Parameters*, volume 48 (number 2, Summer 2018): 45-46.

⁴² Warner. "Private Military and Security Companies."..., 45-46.

⁴³ Engler. "Canadian Private Security Companies have wreaked havoc in Afghanistan."

⁴⁴ Warner. "Private Military and Security Companies."..., 10.

⁴⁵ Rogers. Soldiers of Fortune. . ., 56.

⁴⁶ Krieg. The UAE's 'dogs of war..., 165.

Therefore, any PSAs employed by the GoC in support of CAF overseas deployments may not possess the necessary training, experience or principles to enable the operation. During the Afghanistan mission, two contractors employed by Montreal-based PSA GardaWorld were arrested for smuggling Kalashnikov assault rifles into the country in 2012. GardaWorld also hired disgraced former general Daniel Menard as head of its Afghanistan operations during this time period. While not considerable incidents when compared to some of the actions conducted by American PSAs in Iraq, nevertheless, the lack of professionalism by GardaWorld employees did cause some embarrassment for Canada's mission to Afghanistan.⁴⁷

The potential lack of well-trained contractors also creates another possible negative aspect for employing PSAs in that they could be deliberately targeted by adversarial forces.

Even in situations where a PSA employs former Western military personnel that may possibly have some automatic weapons and armoured civilian-pattern vehicles, PSAs generally do not possess the level of weaponry, armoured vehicles and combat support that a conventional military would. In Iraq, the perceived softer target of PSAs resulted in contractors being deliberately targeted by insurgents, highlighted by the murder of four contractors in Fallujah in 2005 that served as the impetus for the First Battle of Fallujah. In relation, the author recalls personal experience during a deployment to Afghanistan in 2009 where foreign PSA convoys were ambushed by insurgents on a near daily basis while having to resort to more covert methods of IED emplacements to target better armoured CAF vehicles. The possible detrimental impact

⁴⁷ Ben Makuch. "Mercenaries and Defence Contractors are as Canadian as Maple Syrup." Last modified 4 May 2018. https://www.vice.com/en/article/paxzm8/mercenaries-and-defence-contractors-are-as-canadian-as-maple-syrup.

⁴⁸ Joel Baum and Anita McGahan. "Outsourcing War: The Evolution of the Private Military Industry after the Cold War." (Master's thesis, University of Toronto, 2009), 16.

⁴⁹ Rogers. Soldiers of Fortune. . ., 57.

that deliberate targeting of PSAs could have on CAF operations is that military resources may have to be diverted to protect PSAs.⁵⁰ Even though PSAs are not a part of the CAF chain of command, the CAF may still be obligated to protect PSAs if Rules of Engagement specify protection of civilians.

Maintaining the theme of lesser quality PSA contractors and potential negative consequences for CAF operations is possible fratricide incidents through mistaken identification. In August 2008, Master Corporal Josh Roberts was killed in Afghanistan, initially reported to be the result of friendly fire by an American PSA that was conducting convoy escort in the area. While it turned out that Roberts was not killed by PSA fire, there were other incidents between CAF and PSAs in Afghanistan as Canadian soldiers fired on American PSAs conducting convoy escorts in October 2007 and April 2008.⁵¹ These incidents highlight the dangers of having a large number of PSAs operating in a conflict zone at the same time that coalition forces are present.

Canadian PSAs employing non-Canadians may also have a negative impact on the public image of the GoC and CAF with respect to the treatment these non-nationals receive once their services are no longer required. When the Canadian Embassy withdrew from Kabul in August 2021 as the Western supported regime fell to the Taliban, local Afghans that were employed by Canadian PSAs as security guards were now left without employment and, of more concern, vulnerable to Taliban reprisals. To make the situation worse, these locals could not get approval to immigrate to Canada despite promises from the Canadian Ambassador.⁵² Although this example is related to the GoC, it could have possible implications for the CAF as there could be

⁵⁰ Warner. "Private Military and Security Companies."..., 30.

⁵¹ Toronto City News. "'Friendly Giant' the 90th Canadian Soldier killed in Afghanistan attack." Last modified 11 August 2008. https://toronto.citynews.ca/2008/08/11/friendly-giant-the-90th-canadian-soldier-killed-in-afghanistan-attack/.

⁵² Tom Blackwell. "Auto-reply for the Afghan who guarded our embassy and sought refuge in Canada." *The National Post.* 3 December 2021.

an expectation from locals employed by PSAs in protection of CAF infrastructure that Canada will continue to look after them once their employment is terminated.

MITIGATION STRATEGIES

While the above pages highlight all the negative aspects of PSAs and why they should not be considered as a replacement for conventional forces, total prohibition of the PSA industry is extremely unlikely in the West and Canada as it would require an elimination of both the supply and demand for this service. SAS well, this paper has also indicated the positive aspects of PSAs, in particular the fact that PSAs can be employed to protect GoC and CAF infrastructure that frees up CAF elements to conduct the mission. Considering all of the negative and positive PSA aspects there are several recommendations for the GoC and CAF to undertake in order to ensure that PSAs employed in the service of Canada are a beneficial asset, and not a detriment, to CAF operations.

First, and perhaps most importantly, Canada must develop guidelines and policies for PSAs that are employed in service of GoC departments, including the Department of National Defence (DND) which includes the CAF.⁵⁴ While such legislation is the privy of the GoC, institutional leadership in the CAF should press the government for regulating PSAs as these corporations regularly deploy to the same areas as the CAF and can impact military operations. Moreover, such policies would protect DND (CAF), GAC and other governmental uses of PSAs from the absence of binding international laws and regulations governing PSAs.⁵⁵ This is of particular significance as our American allies have regulated their PSAs. However, as previously indicated, the US only legislated their PSAs after several high-profile negative

⁵³ Warner. "Private Military and Security Companies."..., 46.

⁵⁴ Norys and Matthewman. "Corporate Allies."..., 104.

⁵⁵ *Ibid*. 104.

incidents involving these corporations humiliated the government.⁵⁶ Canada also experienced negative issues with their PSAs in Afghanistan, but these incidents were minor. Therefore, it is imperative that Canada be proactive to regulate its PSA industry now rather than being reactive and waiting for a serious incident involving a PSA to occur that embarrasses Canada before considering legislative action.

It is also recommended that due to the legal ambiguity surrounding the employment of PSAs, lower training standards, deliberate targeting by adversaries due to perceived softer target and potential for fratricide due to PSAs operating in the same vicinity as CAF elements, that PSAs deployed in support of CAF operations should be used in a security situation; mainly protection of GoC / CAF static infrastructure as this liberates CAF resources to conduct other missions. The author does not recommend that PSAs be employed in convoy escort of military logistics in lieu of CAF elements as there are historical examples of PSA protected convoys being targeted due to perceived softness compared to a conventional military. While it is likely that the GoC / CAF legal obligations are clearly delineated to locals employed by PSAs, the contracting agency must be upfront with non-Canadians hired regarding the limited extent that Canada is morally responsible for their well-being once their employment is terminated to avoid unrealistic expectations.

As PSAs are employed by Canada and our major allies, the CAF must educate its members on PSAs and conduct training that involves these organizations to develop relationships in order to develop better understanding as PSAs will likely continue to feature in future conflicts. ⁵⁷ While this will assist in developing working relationships in Canada, in order to better coordinate with national and foreign PSAs on overseas deployments, the CAF should

⁵⁶ Warner. "Private Military and Security Companies."..., 45-46.

⁵⁷ Norvs and Matthewman. "Corporate Allies."..., 100.

establish a cell within its mission headquarters that liaises with PSAs.

CONCLUSION

The 21st Century has witnessed a significant increase in the employment of PSAs in support of military operations. For Canada and the West, the increase has been due to the downsizing of militaries after the Cold War. However, an unexpected increase in smaller-scale conflicts resulted in PSAs being employed to makeup for the lack of conventional forces. While PSAs offer some advantages, they are not an appropriate substitute for armed forces due to their legal ambiguity and frequent lack of quality personnel and resources. Nevertheless, PSAs provide benefits that make them a useful asset to a military mission, mainly the protection of static infrastructure that frees up conventional forces for other operations. To further maximize the benefits of PSAs, the GoC and CAF must implement several measures to eliminate the negative aspects of PSAs. Primarily, as several of its allies have learned, there is a requirement for Canada to be proactive in developing legislation and policies to regulate national PSAs and ensure that they are accountable to the GoC.

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