

Robert Mikac

## ***Contemporary Security and Private Security Companies: Privatization of Security and Consequences***

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With the end of the Cold War and the corresponding shift in military doctrine, the structure and deployment of national armed forces, as well as the core change in comprehension of (inter-)/national security and (inter-)/national security threats, the role of private security providers gained a new momentum. The increased involvement of private military security companies in the provision of private, national and international security created a new field of study and opened up several important on-going debates over the purpose and scope of private security within the traditional state-domain setting. As the recent military campaigns in Iraq and Afghanistan confirmed, the use of private security enterprise in completing certain aspects of public interest became an indispensable tool for achieving the overall goals, even for the most advanced and powerful nation states.

Despite the growing presence of the private sector in the security provision services, traditionally offered by a nation state, a number of legal and political issues are still pending consideration. Is it possible for a nation state, an international organization or a private entity to utilize force through armed private security contractors, and is such an activity (fully/partially) regulated? Are private security contractors allowed to directly participate in armed conflict or other activities that, absent of the traditional military means, constitute a serious level of direct confrontation, i.e. cyber warfare, and to what extent is such conduct regulated by national law and relevant international law (on armed conflict)? Is the operation of a private military security company, contracted by one state and performing in another, legitimate and legal? What is being done to ensure that the conduct of such companies is examined prior to the contracting (auditing), supervised during the performance of service (ground control), and re-examined after the service has been completed (oversight)?

Does international humanitarian law bind such companies and are they under an obligation to respect and protect human rights? In an instance of poor performance or non-performance, are such companies responsible and liable to both the contracting party and a third party? And finally, does the noted divide within the nation state monopoly over the use of violent means indicate a division of responsibility, or should a contracting nation state remain responsible for the overall outcome of such activities, including an obligation to compensate for the damage sustained by third parties due to the security contractor's lack of/poor performance?

The author of this unique study within the Croatian academic setting on private security companies, Rober Mikac (PhD), endeavors to provide answers to the above and other important issues concerning the use of private security. Mikac examines the concept and notion of security from the perspectives of an individual, a nation state, relevant private entities (i.e. multinational companies), the international security order and international security threats (chapter 1). After offering a historical perspective on the use of private security companies prior to the end of the 20<sup>th</sup> century, and a detailed analysis of the causes leading to a more enhanced use of such companies after the end of the Cold War (chapter 2), the author proceeds to examine the legislative attempts (with a particular focus on human rights protection), both on an international and national level, to regulate the operation of such companies and determine the legal status of their employees (chapter 3). Finally, Mikac assesses the role of private military security companies, working with the nation states and their armed forces, largely focusing his analysis on the situation in Iraq and Afghanistan, as well as on the current state of the War on Terror (chapter 4).

Mikac argues that, in order to fully understand the (potential) synergy between the nation state provision of security and the private provision of security, it is necessary to discern and categorize the key factors influencing the contemporary, ever-adapting concept of security. The author first and foremost recognizes the necessity of evaluating several key nation states' strategic security doctrines, policies and laws (i.e., those of the United States, United Kingdom, Republic of South African, etc.) in an effort to determine how such concepts change over time, allowing for, *inter alia*, the use of the private sector in achieving objectives set by national security policy. Furthermore, once the research detects the nation states' recognition of the private sector's

potential, and recognizes the demand for private services, it is necessary to examine how and to what extent such services are employed in practice. A further logical progression of analysis seeks to locate and examine the practical examples where the use of private companies has led to both positive and negative results.

Thus, the author analyses the use of private military security companies by the United States in Iraq and Afghanistan. The latter is of particular interest having in mind that Mikac has practical experience from the field as he was a commander of a multinational contingent of military police in Kabul, and having had the opportunity to, being on the side of military personnel, interact with the civilian contractors on and outside of the battlefield arena. Furthermore, the author considers that the analysis would be incomplete without examining the impact of the increased use of private security by and in the so-called “weaker states”, where there is often a disquieting potential for a negative influence of private security on the overall notion of public (national) security.

The unencumbered incursion of private enterprise into traditional state affairs has disturbed the traditional setting as established with the Peace of Westphalia well over 350 years ago. This has led many authors to ponder over possible negative impacts of the increased use of private security services, where, in some cases, the use of a private company may, in itself, constitute a certain level of threat to the overall public security interest. Having this in mind, Mikac highlights the importance of keeping the nation states responsible for the overall provision of security, including situations where security is being provided by a private stakeholder. The contractual outsourcing of responsibility, according to the author, would undoubtedly lead to conflict with democratic values, public security and individual freedoms. Thus, the modern state should learn how to adapt to the synergy model where the public-private partnership enables a satisfactory level of security protection (keeping in mind the multifaceted nature of a modern security threat), and at the same time ensures that the shift in power from state security provision to corporate security provision does not disturb the availability of equal security to all of its citizens.

In this sense, private military security companies act as a partner, whose conduct/performance, competence and responsibility should be clearly identified, constantly evaluated, controlled and supervised. In particular, as the

author notes, the already available relevant international and national laws should be further developed, allowing for specialized legal norms regulating the conduct of private military security companies. The lack of concrete regulation and the lack of proper control mechanisms, where such regulation is in place, are, as the author argues, to a certain extent a result of a lack of general consensus on how such regulation should proceed. However, as Mikac explains, both the nation states and the private security industry struggle to establish a proper balance and induce proper legislative measures in order to resolve the noted lack.

Robert Mikac's work is significant for a number of reasons. The strenuous research represents a first major study on the phenomenon of private military security companies in Croatian literature and academic writing. It provides an extensive overview of the issues relevant for understanding the diversity and profundity of the change that is taking place in the modern world where the provision of public security – for good or for worse – is gradually taken over by private contractors. Furthermore, the author skillfully and competently analyses and explains the finesse of international law and political doctrine, providing the reader with an easily understandable and readable content, irrespective of the fact that the subject matter is highly complex, intertwined between several branches of social science (i.e., law, political science, sociology, philosophy), and further complicated by the intricate influence of high politics, clandestine activities and, very often, atrocious reality of war crimes and the absolute disrespect of human rights. Mikac has spent a considerable time scrutinizing the issue: the sources used during the research represent the most relevant literature on the subject matter, and, given the fact that the author has taken an additional effort to conduct interviews with relevant sources, it is of no surprise that the book *“Contemporary Security and Private Security Companies: Privatization of Security and Consequences”* excels among academic writing on the issue of private military security companies. The reading of Robert Mikac's book is a *sine qua non* for all who wish to acquaint themselves with the changing nature of national security and the increasing role of the private sector in providing security services.

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